



CUSTOMS ACT 1901 - PART XVB

STATEMENT OF ESSENTIAL FACTS
NO 626

**INQUIRY CONCERNING THE CONTINUATION
OF ANTI-DUMPING MEASURES APPLYING TO
PVC FLAT ELECTRIC CABLES
EXPORTED TO AUSTRALIA FROM
THE PEOPLE'S REPUBLIC OF CHINA**

1 February 2024

SEF 626 – PVC flat electric cables – China

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ABBREVIATIONS

ABF	Australian Border Force
ACBPS	Australian Customs and Border Protection Service
the Act	<i>Customs Act 1901</i>
ADN	Anti-Dumping Notice
the analysis period	from 1 April 2018 to 31 March 2022
Anti-Dumping Agreement	<i>Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994</i>
APEC	Australia Pacific Electric Cables Pty Ltd
the applicant	Prysmian Australia Pty Ltd
AUD	Australian dollars
the Australian Standard	Australian/New Zealand Standard AS/NZS 5000.2
China	the People's Republic of China
combination duty method	combination of fixed and variable duty method
the commission	the Anti-Dumping Commission
the Commissioner	the Commissioner of the Anti-Dumping Commission
CTMS	cost to make and sell
the department	The Department of Industry, Science and Resources, or its predecessor the Department of Industry, Science, Energy and Resources
Dumping Duty Act	<i>Customs Tariff (Anti-Dumping) Act 1975</i>
Electra	Electra Cables (Aust) Pty Ltd
EPR	the electronic public record
FOB	Free on Board
GOC	Government of China
the goods	PVC flat electric cable exported from China as defined in section 3.3
Guilin	Guilin International Wire & Cable Co Ltd
ICD	interim countervailing duty
IDD	interim dumping duty
the inquiry period	1 April 2022 to 31 March 2023
Jiangsu Etern	Jiangsu Etern Electric Co Ltd
LME	London Metal Exchange
the Manual	Dumping and Subsidy Manual

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MCC	model control code
the measures	the anti-dumping measures / dumping duty notice and countervailing duty notice
the Minister	the Minister for Industry and Science
mm	millimetres
NAN	NAN Electrical Cable Australia Pty Ltd
Nanyang	Nanyang Cable (Tianjin) Co Ltd
Nexans	Nexans Olex Australia Pty Ltd
NIP	non-injurious price
OCOT	ordinary course of trade
Prysmian	Prysmian Australia Pty Ltd
PVC	polyvinyl chloride
PVC flat electric cables	the goods subject to the measures of this inquiry, as defined in ADN 2023/031.
the Regulation	<i>Customs (International Obligations) Regulation 2015</i>
REP 469	<i>Anti-Dumping Report No 469</i>
REQ	response to the exporter questionnaire
RIQ	response to the importer questionnaire
ROI	return on investment
SEF	statement of essential facts
SG&A	selling, general and administrative
SMM	Shanghai Metals Market
TE	Twin and Earth
Tycab	Tycab Australia Pty Ltd
USP	unsuppressed selling price
V	volts
WTO	World Trade Organization
WWC	World Wire Cables (Aust) Pty Ltd

1 SUMMARY AND RECOMMENDATIONS

1.1 Introduction

This statement of essential facts (SEF) concerns an inquiry into whether the continuation of the anti-dumping measures (the measures) on PVC flat electric cables (the goods) exported to Australia from The People’s Republic of China (China) is justified. The measures are in the form of a dumping duty notice and a countervailing duty notice (the measures). They are due to expire on 14 May 2024.¹

This SEF sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) proposes to base their recommendations to the Minister for Industry and Science (the Minister).

The Commissioner’s final recommendations to the Minister will be contained in a report due by **28 March 2024**.

Interested parties should note that the SEF may not represent the final views of the Commissioner. The Commissioner invites interested parties to make submissions in response to the SEF (see section 1.5).

1.2 Proposed recommendations

The Commissioner is preliminarily satisfied that the expiration of the measures would be likely to lead to a continuation and or recurrence of dumping, subsidisation, and the material injury that the measures intend to prevent.

The Commissioner proposes to recommend that the Minister take steps to secure the continuation of the measures for a further 5 year period.

The Commissioner further proposes to recommend that the rate of interim dumping duty (IDD) and interim countervailing duty (ICD) in Table 1 apply from **14 May 2024**.

Exporter	Fixed rate of IDD	Fixed rate of ICD	Duty method	Total effective rate of duties
Jiangsu Etern Electric Co Ltd	11.8%	0.1%	Combination duty	11.9%
Nanyang Cable (Tianjin) Co Ltd	29.1%	2.8%	Combination duty	31.9%
Uncooperative and all other exporters	29.1%	3.3%	Combination duty	32.4%

Table 1: Proposed measures resulting from this inquiry

¹ Section 269TM of the *Customs Act 1901* (the Act). All legislative references are to the *Customs Act 1901*, unless otherwise specified.

1.3 Background to the inquiry (chapter 2)

The Commissioner initiated this inquiry on 9 June 2023 and established an inquiry period of 1 April 2022 to 31 March 2023 (the inquiry period).²

Prysmian Australia Pty Ltd (Prysmian) is the applicant seeking to continue the measures.³

1.3.1 Conduct of the inquiry

The initiation notice advised that the SEF was initially due on or before 27 September 2023 and that the final report was due to be provided to the Minister by 11 November 2023. The Anti-Dumping Commission (the commission) obtained an extension of time to these due dates, resulting in its current due dates.⁴

The commission invited interested parties, exporters and importers of the goods to participate and provide information relevant to the inquiry period.

1.4 Summary of key preliminary findings

The Commissioner's preliminary findings and conclusions in this SEF rely on the information available at this stage of the inquiry. The subsections below provide a summary of these findings, which are set out in further detail throughout the SEF.

1.4.1 The goods, like goods and the Australian industry (chapter 3)

The Commissioner has made a preliminary finding that there is an Australian industry producing like goods.

1.4.2 Australian market (chapter 4)

The Commissioner has preliminarily found that the Australian PVC flat electric cable market is supplied by the Australian industry and by imports, predominantly from China.

1.4.3 Economic condition of the Australian industry (chapter 5)

The Commissioner assessed the economic condition of the Australian industry from Q2 2018 to Q1 2023 (the analysis period) to analyse trends in the market for PVC flat electric cables and assessing potential injury factors. The Commissioner has preliminarily found that the Australian industry has:

- experienced price suppression for a substantial part of the analysis period
- seen a declining trend in sales volume over the analysis period, with its overall sales volume at levels slightly less than at the beginning of the period in 2018
- had fluctuating market share, which increased in 2019/20 and 2020/21 at the expense of Chinese imports (aligning with the COVID-19 pandemic) followed by a decrease to a slightly lower share than that found in 2018/19 (as Chinese imports resumed post COVID-19 pandemic)

² ADN No 2023/031, EPR 626, document no [2](#).

³ EPR 626, document no [1](#).

⁴ ADN No 2023/062, EPR 626, document no [6](#).

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- experienced low or negative profit levels and unit profitability for most of the analysis period.

1.4.4 Dumping and subsidisation during the inquiry period (chapter 6)

For the purposes of this continuation inquiry, the commission has preliminarily assessed variable factors to determine whether exports in the inquiry period were dumped, and whether dumping is likely to continue or recur if the anti-dumping measures are not continued.

The commission has preliminarily determined the following dumping and subsidy margins:

Country	Exporter	Dumping margin	Subsidy margin
China	Jiangsu Etern Electric Co Ltd	23.1%	0.1%
China	Nanyang Cable (Tianjin) Co. Ltd	31.8%	2.8%
China	Uncooperative and all other exporters	31.8%	3.3%

Table 2: Dumping and subsidy margins

1.4.5 Likelihood of dumping, subsidisation, and material injury continuing or recurring (chapter 7)

The Commissioner's preliminary view is that the expiry of the measures would lead, or would be likely to lead, to a recurrence of the dumping, subsidisation, and material injury that the measures are intended to prevent.

The Commissioner has reached this view based on being reasonably satisfied of the following preliminary findings:

- Chinese exporters will continue exporting the goods because:
 - their exports continue to comprise a significant portion of the Australian market
 - they have maintained distribution links in the Australian market
 - their preserved excess production capacity and production lines for cables intended for other products and other markets enables them to reconfigure supply to the Australian market for PVC electric cables
- Those exports will be dumped because the commission found a new entrant to the PVC flat electric cables market, Jiangsu Etern Electric Co Ltd (Jiangsu Etern), which has been supplying the market at dumped rates
- Guilin International Wire & Cable Co Ltd (Guilin), which is subject to lower dumping measures under a separate instrument continues to supply a significant portion of the Australian market. The commission views that it is likely that other exporters would seek to increase market share should the measures expire, considering the competitive and price-sensitive nature of the market
- Other Chinese exporters appear to be exporting the goods at what are likely to be dumped rates
- These dumped goods would lead, or be likely to lead, to cause a continuation or recurrence of material injury to Australian industry in the form of reduced sales volume, reduced prices and reduced profitability.

1.4.6 Non-injurious price (chapter 8)

The commission has calculated a preliminary non-injurious price (NIP) for the goods exported to Australia, being the minimum price necessary to prevent the injury, or a recurrence of the injury, to the Australian industry caused by the dumping of the goods exported from China.

The commission found that the NIP has changed since it was last ascertained.

To determine the NIP, the commission has given regard to the approach used to calculate the NIP in Anti-Dumping Report No 469 (REP 469). The commission has calculated the NIP as:

- an unsuppressed selling price (USP) for the Australian industry, based on the Australian industry's monthly weighted average cost to make and sell (CTMS) plus a reasonable amount of profit over the inquiry period,
less
- amounts for importer selling, general and administrative expenses, and the expenses incurred in bringing the goods to Australia from the Free on Board (FOB) export point.

The Commissioner has preliminarily found that the normal value of the goods exported by Jiangsu Etern exceeds the NIP. Therefore, under the lesser duty rule the NIP will be the operative measure.

The commission has calculated an adjustment to the normal value of the goods exported by Nanyang Cable (Tianjin) Co Ltd (Nanyang) and all other exporters from the values determined in REP 469, to reflect increasing copper prices and inflation over the period. From this analysis the commission determined that the sum of the export price and total interim duty payable for the goods exported by Nanyang and all other exporters no longer exceeds the NIP for the goods from China. Therefore, under the lesser duty rule, the NIP will no longer be the operative measure for Nanyang and all other exporters (excluding Jiangsu Etern and Guilin).

1.4.7 Form of measures (chapter 9)

The Commissioner proposes to recommend that the combination duty method continue to be used to calculate the IDD payable by exporters listed on this notice.

1.5 Responding to this SEF

The SEF may not represent the Commissioner's final views. The commission invites interested parties to make written submissions in response to this SEF for the Commissioner's consideration.

Interested parties who wish to make written submissions in response to this SEF must do so no later than **21 February 2024**, which is within 20 days after the SEF is placed on the public record.⁵

⁵ Section 269ZHE(3).

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The Commissioner is not obliged to have regard to any submission made in response to the SEF received after this date if to do so would, in the opinion of the Commissioner, prevent the timely preparation of the report to the Minister.⁶

Submissions may be lodged by email to investigations2@adcommission.gov.au

Alternatively, interested parties may post submissions to:

Director, Investigations 2
Anti-Dumping Commission
GPO Box 2013
CANBERRA ACT 2601
AUSTRALIA

Confidential submissions must be clearly marked as 'OFFICIAL: Sensitive'. A non-confidential version of the submission, marked 'PUBLIC RECORD', is required for the public record. A guide for making submissions is available on the commission's website.⁷

The electronic public record (EPR) contains non-confidential submissions from interested parties, non-confidential versions of the Commission's verification reports and other publicly available documents.

Interested parties should read this SEF in conjunction with other documents on the EPR.

1.6 Final report to the Minister

The Commissioner must report to the Minister by no later than **28 March 2024**.⁸ The final report will contain the Commissioner's final recommendations about the continuation of the measures.

⁶ Section 269ZHE(4).

⁷ A guide for making submissions is available [here](#).

⁸ The Commissioner's final report and recommendations must be provided to the Minister within 155 days after the publication of a notice under section 269ZHD(4) or such longer period as allowed.

2 BACKGROUND

2.1 Legislative framework

The procedures to be followed by the Commissioner in an application for the continuation of anti-dumping measures are set out in Division 6A of Part XVB of the Act.

Section 269ZHE(1) requires the Commissioner to publish a SEF on which they propose to base their recommendations to the Minister about the continuation of the measures.

Section 269ZHE(2) requires the Commissioner, in formulating the SEF, to have regard to the application and any submissions received within 37 days of the initiation of the inquiry. Under section 269ZHE(3), the Commissioner is not obliged to have regard to any submissions relating generally to the inquiry that are received by the Commissioner after the 37 days if to do so would, in the Commissioner's opinion, prevent the timely placement of this SEF on the EPR.

The Commissioner may also have regard to any other matters they consider relevant.

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of the measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, the dumping, subsidisation, and the material injury that the measures are intended to prevent.

Section 269ZHF(1) requires the Commissioner, after conducting an inquiry, to give the Minister a report which recommends that the relevant notice:

- remain unaltered, or
- cease to apply to a particular exporter or to a particular kind of goods, or
- have effect in relation to a particular exporter or to exporters generally as if different variable factors had been ascertained, or
- expire on the specified expiry day.

2.2 Application and initiation

On 14 March 2023, the Commissioner published Anti-Dumping Notice (ADN) 2023/13⁹ on the commission's website inviting the following persons to apply for the continuation of the measures:

- the person whose application under section 269TB resulted in the measures,¹⁰ or
- persons representing the whole or a portion of the Australian industry producing like goods to the goods covered by the measures.¹¹

⁹ In accordance with section 269ZHB(1).

¹⁰ Section 269ZHB(1)(b)(i).

¹¹ Section 269ZHB(1)(b)(ii).

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On 9 June 2023, Prysmian lodged an application for the continuation of the measures on the goods exported to Australia from China.¹²

The Commissioner was satisfied that:

- the application complied with section 269ZHC (content and lodgement requirements),¹³ and
- there appeared to be reasonable grounds for asserting that the expiry of the measures might lead, or might be likely to lead, to a continuation of, or a recurrence of, the material injury that the measures are intended to prevent.¹⁴

The Commissioner therefore decided not to reject the application and published ADN 2023/031 initiating the present inquiry on 9 June 2023.¹⁵

2.3 Current measures

The measures of this inquiry were initially imposed by ADN 2019/47 on 8 May 2019 by the relevant Minister following the original investigation. The findings of that original investigation are detailed in REP 469.¹⁶

Exporter in REP 469 not subject to the measures

In REP 469, Guilin was deemed to be a cooperative exporter and was originally subject to the measures under ADN 2019/47. Following judicial review of this decision, the measures were set aside insofar as they applied to Guilin. The then Department of Industry, Science and Resources (the department) conducted a review of the measures insofar as they applied to Guilin. On 1 September 2022, the Minister applied separate measures for Guilin under ADN 2022/019, which are due to expire on 1 September 2027. The findings of the department's investigation are detailed in a submission to the Minister.¹⁷

Where appropriate, for the purposes of this inquiry the commission has considered the PVC flat electric cables market inclusive of all suppliers, including Guilin, to assess the current economic conditions of the market. Additionally, as noted above, the commission has also considered the impact of Guilin's continuing supply of a significant proportion of the Australian market. This is in respect of informing findings of fact about the likely behaviour of *other exporters* (who are the subject of this inquiry), should the measures expire and whether dumping, subsidisation, and material injury will continue or recur with respect to those other exporters. To reiterate, the scope of the recommendations of this inquiry only covers the measures currently in effect under ADN 2019/47 and does not extend to goods exported from China by Guilin.¹⁸

¹² Under section 269ZHC. A non-confidential version of the application is available on EPR 626, document no [1](#).

¹³ Section 269ZHD(2)(a).

¹⁴ Section 269ZHD(2)(b).

¹⁵ EPR 626, [ADN 2023/031](#).

¹⁶ EPR 469, document no [31](#).

¹⁷ EPR 469, document no [43](#).

¹⁸ EPR 626, document no [4](#).

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Current measures

The Dumping Commodity Register on the commission’s website summarises the measures currently applying to exports of PVC flat electric cables to Australia from China.¹⁹

Table 3 below summarises the current measures applying to exports of the goods to Australia from the subject country.

Exporter	Notice	Measure	Form of measures	Effective rate of duty
Guilin International Wire & Cable Co Ltd	ADN 2022/19	IDD	Ad valorem method	2.8%
Nanyang Cable (Tianjin) Co. Ltd.	ADN 2019/47	IDD & ICD	Combination method	22.0%
Uncooperative and all other exporters	ADN 2019/47	IDD & ICD	Combination method	22.0%

Table 3: Current measures applying to exports of the goods

Further detail about these measures can be found in the dumping commodity register on the commission’s website.²⁰

2.3.1 Other cases

The commission has conducted several cases relating to electric cables and PVC flat electric cables. A list of selected cases is set out in Table 4 below, and further details can be found on the commission’s website.

Case type and number	Notice	Date	Country of export	Findings
Australian Customs and Border Protection Services (ACBPS) Investigation No 178	Australian Customs Dumping Notice No 2012/04	6 February 2012	China	No dumping found, investigation terminated by Chief Executive Officer of ACBPS.
Investigation No 271	ADN 2014/118	6 November 2014	China	No dumping found, investigation terminated
Investigation No 469	ADN 2018/86	4 June 2018	China	IDD & ICD imposed on China
Accelerated Review 536	ADN 2020/26	8 April 2020	China	Measures remain unaltered for Hebei Huatong Cables Group Co Ltd
Department Investigation	ADN 2022/19	9 September 2022	China	IDD imposed on Guilin and related entities following judicial review by the Federal Court of Australia.

Table 4: Background to key cases relating to electric cables

¹⁹ EPR 469, document no [31](#).

²⁰ The DCR is available [here](#).

2.4 Conduct of the inquiry

The commission invited exporters and importers of PVC flat electric cables to provide information relevant to the inquiry period to determine whether the continuation of measures are justified.

To analyse the performance of the Australian industry in the years before and after measures were imposed, the commission has examined financial data from the Australian industry together with the Australian Border Force (ABF) import database for the analysis period and referred to findings from REP 469.

2.4.1 Questionnaires and verification

Australian industry

The Commissioner is satisfied that the applicant is a member of the Australian industry producing like goods to the goods the subject of this inquiry.²¹ The commission conducted a verification visit to Prysmian's premises in August 2023, with the resulting verification report available on the EPR.²²

The Commissioner is satisfied that Nexans is also a member of the Australian industry producing like goods to the goods the subject of this inquiry,²³ and is the second industry participant for this inquiry. The commission conducted a verification visit to Nexans' premises in September 2023, with the resulting verification report available on the EPR.²⁴

The commission identified two smaller Australian industry members producing like goods: APEC and Tycab. The commission invited these parties to contribute information to the inquiry, however it did not receive a response from either party.

Importers

The commission identified importers from the ABF import database that imported the goods from China during the inquiry period. The commission also placed a copy of the importer questionnaire on its website for completion by other importers who were not contacted directly.

The commission received responses to the importer questionnaire (RIQ) from the following importers:

- NAN Electrical Cable Australia Pty Ltd (NAN), which did not import the goods in the inquiry period, and
- World Wire Cables (Aust) Pty Ltd (WWC).

²¹ See chapter 3.

²² EPR 626, document no [9](#).

²³ See chapter 3.

²⁴ EPR 626, document no [10](#).

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The commission conducted a verification visit with WWC and held a virtual meeting with NAN. Non-confidential versions of the respective verification report and meeting file note are available on the EPR.²⁵

Cooperative exporters and interested parties²⁶

The commission identified the largest suppliers of PVC flat electric cables from China during the inquiry period as reported in the ABF import database. The commission sent questionnaires to the following identified exporters:

- Guilin²⁷
- Hebei Huatong Wires and Cables Group Co Ltd
- Jiangsu Etern
- Nanyang Cable (Tianjin) Co Ltd (Nanyang).

The commission also placed a copy of the exporter questionnaire on its website for completion by other exporters who were not contacted directly.

The commission received two responses to the exporter questionnaire (REQ) listed in Table 5 below.

EPR document no	Interested party	Date received
11	Jiangsu Etern	21 August 2023
12	Nanyang	7 July 2023

Table 5: Exporter questionnaires received from interested parties

The commission verified Jiangsu Etern's REQ. The non-confidential versions of the REQ and the verification report for Jiangsu Etern are available on the EPR.²⁸

Nanyang was an active exporter for REP 469, however it advised that it ceased exporting the goods following the imposition of measures. Nanyang provided a limited REQ based on the information and data it had available. The non-confidential version of the REQ is available on the EPR.²⁹

Uncooperative exporters

The Commissioner considers all other exporters from China, apart from those listed in Table 5 and Guilin, to be uncooperative exporters in this inquiry.

Section 269T(1) states that an exporter is an 'uncooperative exporter' where the Commissioner is satisfied that an exporter of goods the subject of the inquiry did not give the Commissioner information the Commissioner considered to be relevant to the continuation inquiry within a period the Commissioner considered to be reasonable, or where the Commissioner is satisfied that an exporter significantly impeded the inquiry.

²⁵ EPR 626, document nos [7](#) and [14](#).

²⁶ 'Cooperative exporter' is defined in section 269T(1).

²⁷ Refer to section 2.3.

²⁸ EPR 626, document nos [11](#) and [13](#).

²⁹ EPR 626, document no. [12](#).

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The *Customs (Extensions of Time and Non-cooperation) Direction 2015* states at section 8 that the Commissioner must determine an exporter to be an uncooperative exporter, on the basis that no relevant information was provided in a reasonable period, if that exporter fails to provide a response or fails to request a longer period to do so within a specified timeframe, or provides a response that the Commissioner considers did not provide information relevant to the case.

Government of China

On 9 June 2023, the commission wrote to the Government of China (GOC) advising of the initiation of this inquiry. The commission also invited the GOC to complete a questionnaire regarding a particular market situation in respect of like goods in China. The commission did not receive a response from the GOC.

2.4.2 Submissions received

The commission received the submissions listed in Table 6 below before publishing this SEF. Non-confidential versions of these submissions are available on the EPR.³⁰

EPR document no	Interested party and topic of submission	Date received
3	Nanyang and NAN – response to case questionnaires	7 July 2023
8	Prysmian – evidence of price undercutting	20 October 2023

Table 6: Submissions received

The Commissioner has had regard to all submissions in Table 6 in making their preliminary findings outlined in this SEF. The submissions are addressed throughout this report.

Nanyang and NAN provided a joint submission to the commission on 7 July 2023, advising that they had ceased importing the goods into Australia since the commencement of the measures. They also advised that they were willing to cooperate fully with the inquiry but did not have any financial data relating to sales or costs as requested by the commission's exporter and importer questionnaires. As a result, they provided responses to some sections of the questionnaires where they were able to.

The commission acknowledges Nanyang and NAN's cooperation with the inquiry, noting that representatives of the companies participated in a meeting at the commission's request during the investigation.³¹

³⁰ EPR 626, document nos [3](#) and [8](#).

³¹ EPR 626, document no [5](#).

3 THE GOODS, LIKE GOODS AND THE AUSTRALIAN INDUSTRY

3.1 Preliminary finding

The Commissioner finds that:

- locally manufactured PVC flat electric cables are 'like' to the goods subject to the measures
- there is an Australian industry comprising Prysmian, Nexans, APEC and Tycab, and
- the like goods are wholly manufactured in Australia.

3.2 Legislative framework

To be satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation or recurrence of dumping, subsidisation, and the material injury that the measure is intended to prevent, the Commissioner firstly determines whether the goods produced by the Australian industry are 'like' to the imported goods.

Section 269T(1) defines like goods as:

...goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.

The definition of like goods is relevant in the context of this inquiry in determining the Australian industry and whether the expiry of the measures would lead to a continuation of, or a recurrence of, the dumping, subsidisation, and material injury that the measures are intended to prevent. The commission's framework for assessing like goods is outlined in chapter 2 of the Dumping and Subsidy Manual (the Manual).³²

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether the respective goods have characteristics closely resembling each other. The Commissioner considers:

- physical likeness
- commercial likeness
- functional likeness, and
- production likeness.

The Commissioner must also consider whether the Australian industry manufactures 'like' goods in Australia. Section 269T(2) specifies that for goods to be regarded as being produced in Australia, they must be either wholly or partly manufactured in Australia. Under section 269T(3), to be considered as partly manufactured in Australia, at least one substantial process in the manufacture of the goods must be carried out in Australia.

³² Available [here](#) on the commission's website.

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The following analysis therefore establishes the scope of the commission's inquiry.

3.3 The goods subject to the measures

ADN 2023/031 defined the goods subject to the anti-dumping measures as follows:

Flat, electric cables, comprising two copper conductor cores and an 'earth' (copper) core with a nominal conductor cross sectional area of between, and including, 2.5 mm² and 3 mm², insulated and sheathed with polyvinyl chloride (PVC) materials, and suitable for connection to mains electricity power installations at voltages exceeding 80 volts (V) but not exceeding 1,000 V, and complying with Australian/New Zealand Standard (AS/NZS) AS/NZS 5000.2 (the Australian Standard), and whether or not fitted with connectors.

Further information

The locally produced goods are 2.5mm Twin and Earth (TE) PVC flat cable (2.5 TE cable) and are commonly referred to as 'building wire' throughout the building and construction industry, because they are typically used in domestic, commercial, and industrial mains power supplying low voltage wiring installations.

Additionally, the term 'flat cables' describes cables where the conductor and earth cores are laid parallel in the same plane as defined by the Australian Standard. The reference to "two copper conductor cores" refers to the 'phase core' and the 'neutral core', noting that the earth core (also comprising copper) is additional to these 2 active cores.

The report refers to the goods and like goods in this report as 'PVC flat electric cables'.

3.3.1 Tariff classification

The goods are generally classified according to the following tariff subheadings in Schedule 3 to the *Customs Tariff Act 1995*:³³

Tariff subheading	Statistical code	Description
8544		INSULATED (INCLUDING ENAMELLED OR ANODISED) WIRE, CABLE (INCLUDING CO-AXIAL CABLE) AND OTHER INSULATED ELECTRIC CONDUCTORS, WHETHER OR NOT FITTED WITH CONNECTORS; OPTICAL FIBRE CABLES, MADE UP OF INDIVIDUALLY SHEATHED FIBRES, WHETHER OR NOT ASSEMBLED WITH ELECTRIC CONDUCTORS OR FITTED WITH CONNECTORS.
8544.4		- Other electric conductors, for a voltage not exceeding 1 000 V:
8544.49.20		- For a voltage exceeding 80 V but not exceeding 1 000 V
8544.49.20	41	m Insulated with P.V.C. materials

Table 7: Tariff classification of the goods

³³ These tariff classifications and statistical codes may include goods that are both subject and not subject to the anti-dumping measures. The listing of these tariff classifications and statistical codes is for convenience of reference only and does not form part of the goods description. Please refer to the goods description for authoritative detail about goods subject to the anti-dumping measures.

3.4 Model control codes

There is no model control code (MCC) structure for this inquiry given the specific scope and highly standardised nature of the goods. Note that Investigation 469 also did not include an MCC structure.

3.5 Like goods

The Commissioner is satisfied that the domestically produced goods are like to the goods³⁴ because the following characteristics of each closely resemble the other:

- physical likeness
- commercial likeness
- functional likeness, and
- production likeness.

In so finding, the commission has relied upon information provided by both Prysmian (including its application) and Nexans, comprising questionnaire responses and verification visits to their manufacturing facilities.

3.5.1 Physical likeness

As a result of the physical requirements of the Australian Standard and the narrow tolerances allowed, the imported goods and the goods produced by the Australian industry are essentially identical in most physical respects, though the commission has previously observed very minor differences in the colour of the outer PVC sheath and the “feel” of the product from different suppliers. The commission considers that both the imported goods and the goods produced by the Australian industry are physically alike.

3.5.2 Commercial likeness

The commission considers that the imported goods and the goods produced by the Australian industry are commercially alike, as they compete directly in the market for the same customers at wholesale and retail levels, on similar commercial terms or conditions, and the product is ultimately purchased by common end users.

Based on this, the commission considers the locally produced goods to be commercially like to the goods the subject of the measures.

3.5.3 Functional likeness

The PVC flat electric cables that Prysmian and Nexans produce are highly interchangeable with the goods the subject of measures, given that both goods are sold to the same customers for identical or comparable end uses and both the imported and locally manufactured products must comply with the Australian Standard.

Based on this, the commission considers that the locally produced goods and the goods perform the same function and are used in the same end-use applications.

³⁴ As defined in section 269T(1)

3.5.4 Production likeness

The specifications required by the Australian Standard for PVC flat electric cables provide limited basis for the locally produced goods and the imported goods to diverge in terms of their physical, commercial, and functional likenesses.

The commission considers that the locally produced goods and the goods the subject of the measures are both produced using similar production processes and similar raw material inputs to the goods the subject of the measures. This finding is based on the production processes the commission observed during verification activities, together with the commission's understanding of the production process from previous investigations.

3.6 Australian industry – domestic production

3.6.1 Production process

The commission inspected Prysmian's and Nexans' production facilities and viewed the production processes undertaken.

Prysmian's and Nexans' processes are quite similar and include the following steps:

- copper rod is fed into wire drawing machines to produce smaller diameter wires, which may be drawn further to produce strands with the desired diameter
- the strands are fed into a bunching machine, which bunches the strands together to form a conductor
- the conductor then passes through an extruder, and the appropriate PVC insulation covers the conductor to produce a cable
- the cable passes through a series of water baths to cure the PVC and reduce the temperature before it is wound onto a drum
- drums carrying the various component cables are subsequently fed into a second extrusion process which combines the two active cores (red, black) and the earth core (green / yellow) in the appropriate configuration and adds the PVC sheathing
- the printing required to comply with the Australian Standard (bearing the identity of the manufacturer, the year of manufacture, the designation of the insulation and the term "ELECTRIC CABLE" followed by the voltage rating) is added immediately afterwards, before the finished cable is again passed through a series of water baths and wound onto a drum
- the cable is wound onto a spool of the appropriate length and then packed onto pallets for dispatch
- the product is measured and tested (during and after the production process), to ensure its dimensions and electrical performance will satisfy the requirements of the Australian Standard.

3.6.2 Conclusion – Australian industry

Based on the commission's observations of the manufacturing steps during its Australian industry visits and its understanding of the production process of PVC flat electric cables from previous investigations, the Commissioner is satisfied that:

- like goods are wholly manufactured in Australia
- there is an Australian industry producing like goods in Australia

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- the Australian industry includes APEC, Nexans, Prysmian and Tycab.

The commission notes that the applicant identified APEC and Tycab as Australian producers of like goods. The commission subsequently sought, and did not receive, responses to industry questionnaires that were provided to APEC and Tycab.

The commission reviewed publicly available information in conjunction with ABF import data to conclude that APEC and Tycab manufactured like goods during the inquiry period (albeit in small volumes). As such, the commission considers APEC and Tycab to be members of the Australian industry.

4 AUSTRALIAN MARKET

4.1 Preliminary finding

The Commissioner preliminarily finds that the Australian industry, and exporters from China, supplied the market for the goods in Australia during the inquiry period.

In assessing the characteristics of the Australian market, and consistent with the findings of the Australian market in 2018 in REP 469, the commission has preliminarily found that:

- the Australian market is supplied by both Australian industry and imports
- the Australian market is highly competitive, with Australian industry members and importers all in competition with each other
- PVC flat electric cables are highly substitutable between different manufacturers, making price the primary purchasing factor for customers
- China is the predominant source for imports of the goods.

4.2 Approach to analysis

The analysis in this chapter is based on the findings in REP 469, the verified financial information submitted for this continuation inquiry by Prysmian and Nexans, data captured in the ABF import database, and verified importer information.

The commission's assessment of the Australian market is documented in **Confidential Attachment 1 – Market size and share**.

4.3 Market structure

Suppliers

The Australian PVC flat electric cables market is supplied by Australian industry and imports from China. There were manufacturers of the like goods in Australia during the investigation period. All other PVC flat electric cables covered by the goods description supplied to the market are imported from China.

Wholesalers

Given the heavy involvement of electricians in the installation of the goods, the primary route to market is via wholesalers of electrical products. The sales listings provided by the Australian industry members (Prysmian and Nexans) and the cooperating importer (WWC) indicate that there are several major wholesaling chains (comprising single companies or a collective buying group) and a number of smaller, independent wholesalers.

Retail

Other routes to market are via hardware retailers (such as Bunnings, Mitre 10 and similar stores) or by selling directly to larger electrical contractors principally for specific projects.

Rebates and discounts

The commission found that rebates and discounts are a common feature of the market. Differing amounts of rebates and discounts are usually given to customers off the gross invoice price by all suppliers in the market.

4.4 Key drivers of demand

The commission has found that demand for PVC flat electric cable is driven by new residential housing construction, commercial development, and refurbishment of existing properties. Therefore, factors affecting construction demand, such as interest rates, consumer confidence, population growth and housing prices, also impact demand for the goods.

As noted in REP 469, there are several variations of PVC flat electric cable which are not the goods. Smaller versions (such as those with a 1 mm² or 1.5 mm² conductor cross-section) are used in applications requiring a lower current (such as halogen or LED lights); larger versions (such as those with a 4 mm² conductor cross-section) are used to provide power to ovens, air-conditioners, and other fixed appliances requiring a higher electrical current feed.

These smaller and larger cross-section cables have differing costs and performance outcomes. Smaller cross-section cables do not carry as high electrical power as a larger cross-section cable without suffering an increase in resistance, which in turn generates heat and increases the risk of fire. Larger cross-section cables can carry more electrical power, but because of the substantial increase in copper content, are also more expensive. Electricians have strong financial and regulatory incentives to use the most cost-effective cable for the wiring task at hand, which means that there is little – if any – substitution of the goods with other products.

4.5 Market size

The commission estimated the size of the Australian market using verified sales data from cooperating parties, as well as cleansed import data extracted from the ABF import database.³⁵

Figure 1 below depicts the commission's estimate of the size of the Australian market for the analysis period. The size of the Australian market decreased over the two years following the introduction of measures, and then recovered those losses in 2021/22 and 2022/23 to finish the period with sales similar to their 2018/19 levels.

³⁵ Due to the relevant tariff classification including many other types of cables, the commission cleansed the ABF import database in order to base its analysis on the volume of imports where the imported goods are defined within the import declarations properly, and the definition indicates that the imported goods are the goods the subject of this inquiry.

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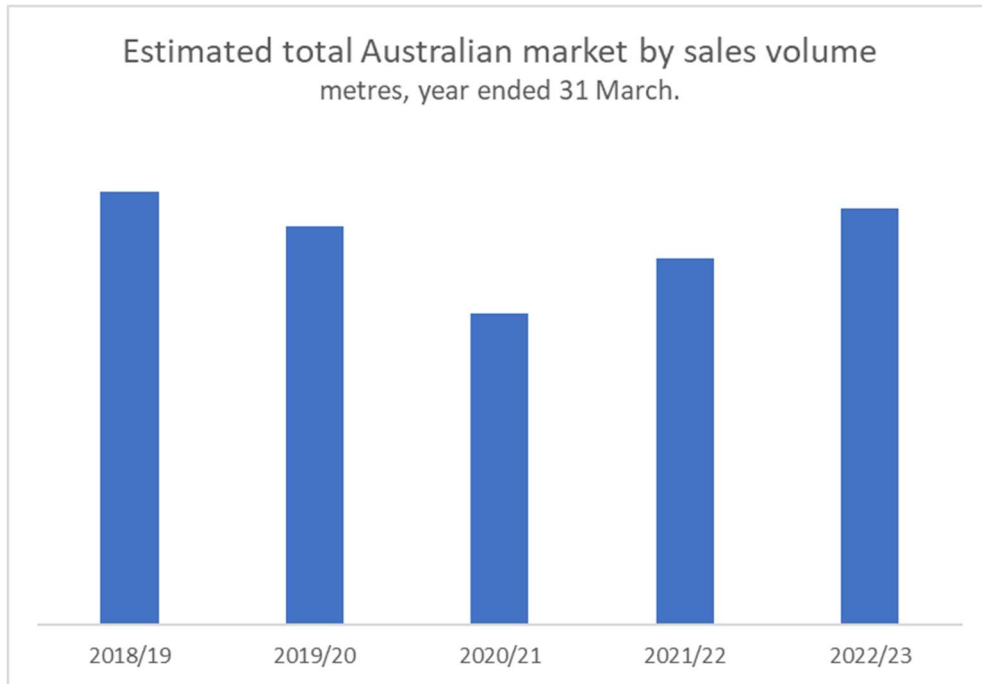


Figure 1: total Australian sales (metres), year ended 31 March.

4.6 Market pricing

The commission found that the pricing of PVC flat electric cables is driven by several production and selling factors. The most significant cost is the market price for copper, which was ascertained based on the London Metal Exchange (LME) rates. This is the biggest raw material input into the goods, followed by PVC (a more price-stable raw material input). Other significant costs include distribution, packaging, direct labour, and variable overheads.

Prysmian and Nexans advised the commission that they set their pricing on a regular basis, and movements in the market price for copper together with competitors' prices, are significant factors in their pricing decisions.

In its application, Prysmian noted the findings of REP 469, which found that the Australian PVC electric cables market is price sensitive.

The commission reviewed the websites of PVC electric cable wholesalers and noted that several sellers listed PVC flat electric cables without a specified brand, or otherwise listed several brands with a single product description and price listing. This indicates that wholesalers will often set the same price for all brands of PVC electric cables, and importers who can obtain lower-priced goods will enjoy a competitive advantage over higher-priced competitors.

Therefore, the commission considers PVC flat electric cables continue to be a price-sensitive product due to the standardised nature of the goods, with a high level of substitutability between different suppliers.

4.7 Market competition

The commission found there to be a high level of competition among Australian manufacturers and importers in the PVC flat electric cable market. This is mainly due to:

- the highly standardised nature of the goods, which must be produced to meet the Australian Standard (as noted in section 3.3)
- limited physical differentiation between PVC flat electric cables produced among manufacturers supplying the Australian market, making the goods highly substitutable.

In its application, Prysmian noted the highly price sensitive and substitutable nature of the domestic like goods and the goods imported from China. The commission notes that the main customers for PVC flat electric cables are electrical wholesalers, distributors and retailers, who on-sell the goods for installation in residential and construction projects. The commission notes that these dynamics limit the demand for product differentiation, as demonstrated by the only differentiated product lines being black cables (instead of white) and a very small amount of non-migratory³⁶ PVC cable for use in polystyrene panels.

As highlighted in section 4.6, the commission also reviewed the websites of several PVC electric cable wholesalers and noted that several sellers listed PVC flat electric cables without a specified brand, or listed several brands with a single product description and price listing.³⁷

These factors indicate that price is the predominant consideration for consumers, which further drives the highly competitive nature of the Australian market for PVC flat electric cables.

³⁶ This refers to the type of plasticiser that is added to PVC to make it flexible (as PVC is a rigid material) – a non-migratory plasticiser ensures it does not transfer from the PVC when in contact with polystyrene or polyurethane insulating materials,

³⁷ See the following web sites for examples: <https://www.sparkydirect.com.au/p/7-067-2ERB/2.5mm-twin-earth-flat-cable-pvc-pvc-100mtrs-7-067.html>, <https://www.rexel.com.au/are/category/Cable/Flat-Cable/Flats/CABLE-TPS-2-5MM-7-067-2C%2BE-100M-RED-BLACK-EARTH-WHITE-SHEATH/CBT2-5TEWH/p/10552054#productDetails>, <https://www.ebranch.online/search;sid=72rmyiAQzEj8y0VrW4zkyjS8AYug2FluuFEIK2YC?kw=cable+flat+2c%2Be+2.5mm2+pvc+wht+rb%26e+100m>, <https://www.powermac.net.au/2.5mm-2c-e-flat-450-750-v-90>.

5 ECONOMIC CONDITION OF THE INDUSTRY

5.1 Preliminary finding

The commission preliminarily notes that the economic condition of the Australian industry, represented by Prysmian and Nexans, has had varied levels of sales revenue results during the analysis period.

From the beginning of the analysis period through to 2020, the Australian industry experienced a decrease in sales volumes and revenue, followed by a time of relative stability in these metrics. For large parts of the inquiry period, the Australian industry experienced negative profit and profitability, returning to positive results in 2022.

The Australian industry experienced a significant increase in market share in 2019/20 and 2020/21, aligning with the COVID-19 pandemic and the resulting interruption to international supply chains. The commission also observed that the Australian industry lost market share over the period 2021/22 to 2022/23, ending the analysis period with a lower market share than it had at the beginning.

Australian industry provided information on other economic factors at the request of the commission. Prysmian did not claim any other injury factors in its application.

5.2 Approach to analysis

This chapter considers the economic condition of the Australian industry during the analysis period, which includes the imposition of the measures on 14 May 2019. This examination provides the basis for the commission's analysis in chapter 7 of whether material injury is likely to continue or to recur.

The commission has assessed the economic condition of the Australian industry over the inquiry period using the following sources of information:

- verified information provided by Prysmian and Nexans
- verified exporter and importer information provided by Jiangsu Etern and WWC
- additional exporter and importer information provided by Nanyang and NAN
- import data from the ABF import database, and
- findings from the original investigation detailed in REP 469.

5.3 Findings in the original investigation

REP 469 found that the Australian industry had experienced injury in the forms of:

- lost sales volume
- loss of market share
- price suppression
- reductions in profit and profitability
- reduced return on investment (ROI)
- reduced capacity utilisation, and
- reduced employment hours.

REP 469 also found that some Australian industry prices were undercut by the dumped and subsidised goods.

5.4 Price effects

As demonstrated below, the commission has found that the Australian industry has experienced price suppression for a substantial part of the analysis period.

Price depression occurs when a company lowers its prices. Price suppression occurs when price increases, which otherwise might have occurred, have been prevented from happening. An indicator of price suppression may be the margin between prices and costs.

Figure 2 below shows that Prysmian’s unit sales revenue remained below unit CTMS until Q1 2022, at which point Prysmian maintained unit sales revenue greater than its unit CTMS.

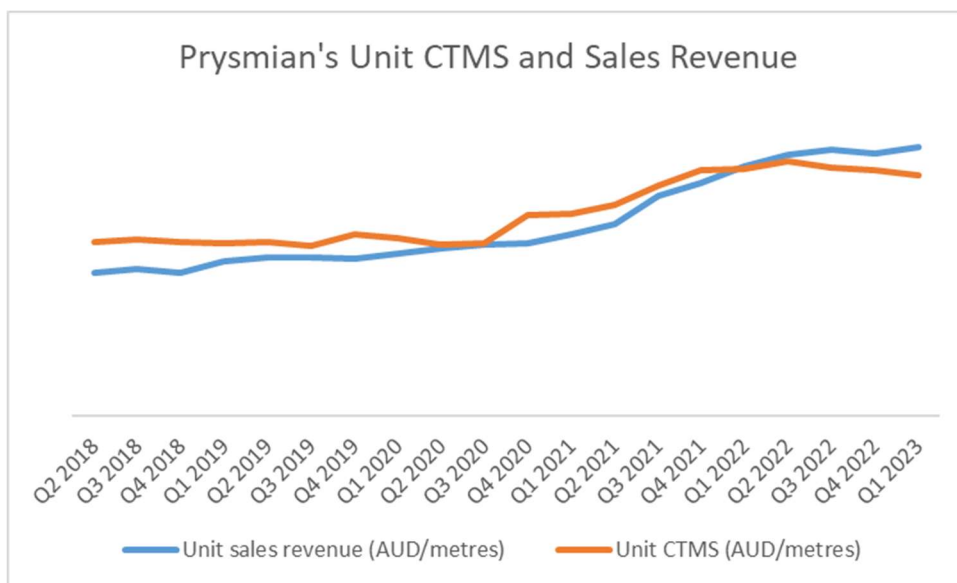


Figure 2: Prysmian’s unit CTMS and sales revenue

Similarly, Figure 3 below shows that Nexans’ net unit sales revenue remained below unit CTMS until Q2 2020, from which both sales revenue and costs grew in close correlation until Q1 2022. Thereafter Nexans’ unit sales revenue exceeded its unit CTMS for the remainder of the period.

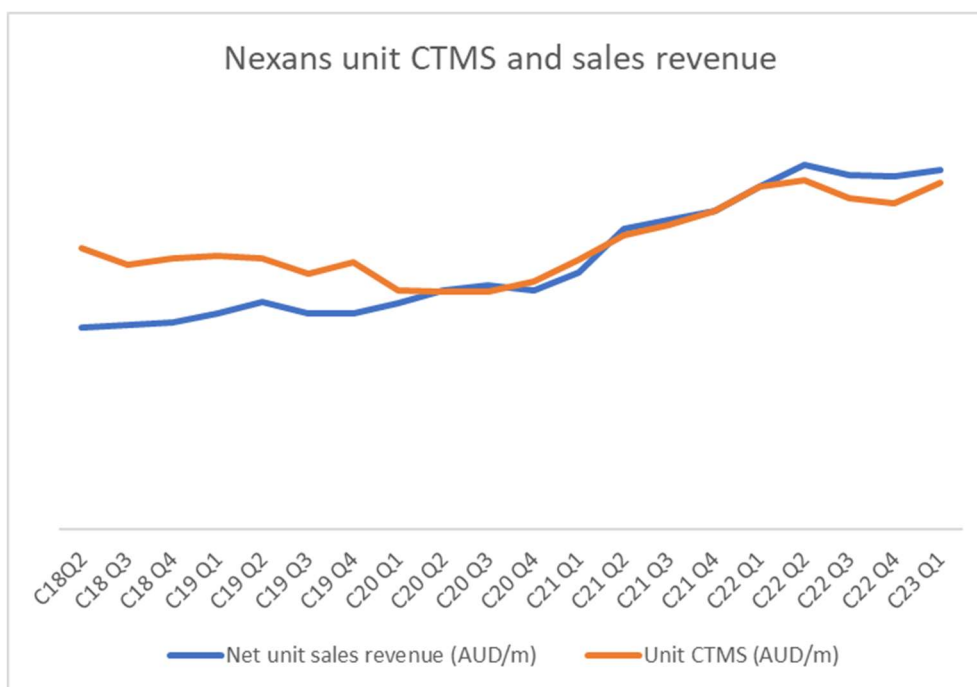


Figure 3: Nexans' unit CTMS and sale revenue

5.5 Volume effects

The commission has found that the Australian industry has seen a declining trend in sales volume over the analysis period, with its overall sales volume at slightly lower levels than the beginning of the analysis period in 2018.

5.5.1 Sales volume

Figure 4 over the page shows Prysmian's sales volume of PVC flat electric cables from Q2 2018 to Q1 2023, demonstrating some fluctuation in sales volume. The decline in sales in 2020/21 aligns with the COVID-19 pandemic period and its resulting disruptions to international supply chains. These broadly impacted overall exports from China to supply the Australian market during the analysis period.

Prysmian's overall sales volume has remained relatively flat from its 2018/19 level over the analysis period.

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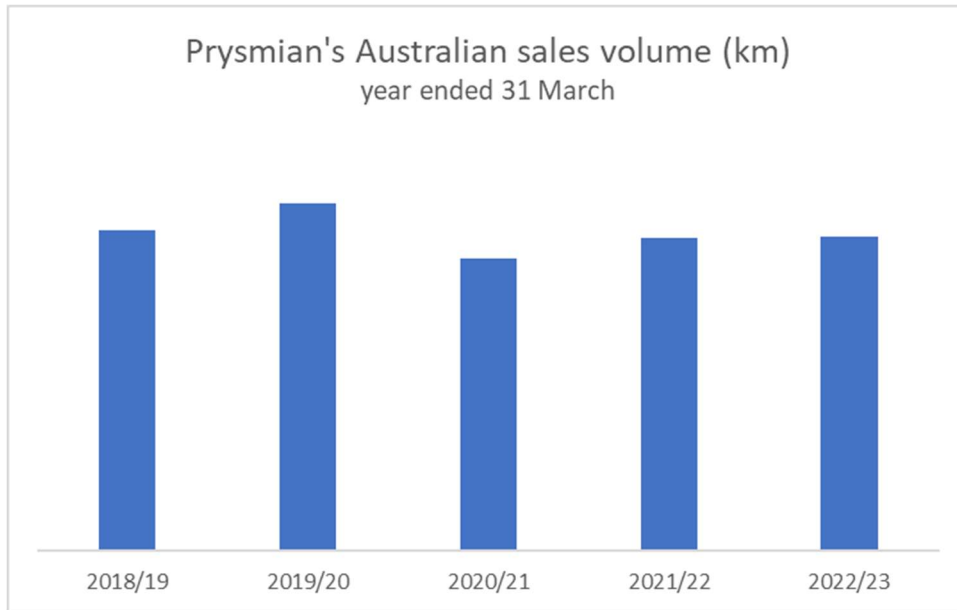


Figure 4: Prysmian's sales volume.

Figure 5 below shows Nexans' sales of PVC flat electric cables have declined since 2019/20 and ended the analysis period with lower sales volume than in 2018/19.

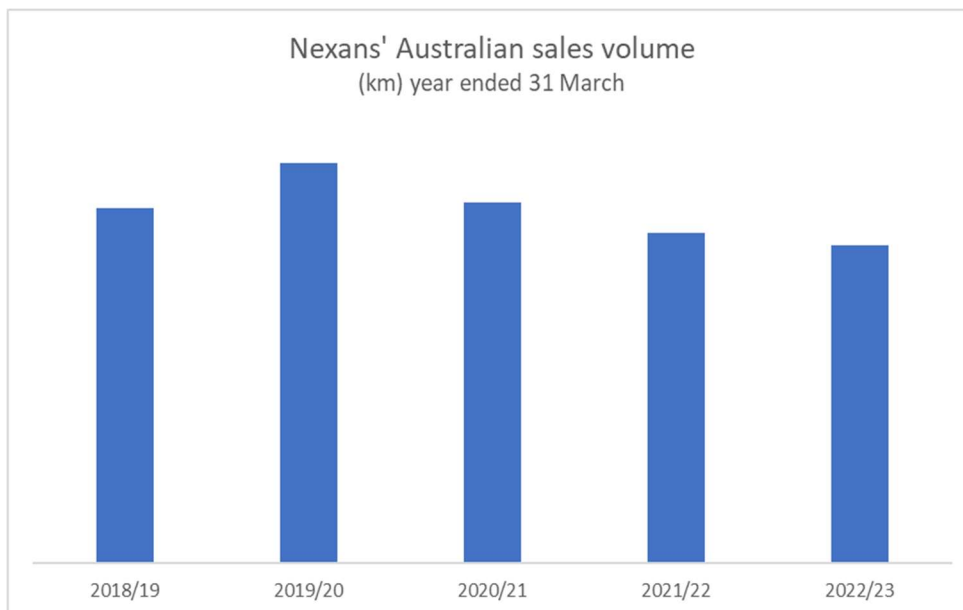


Figure 5: Nexans' sales volume

5.5.2 Market share

Figure 6 demonstrates the movements in market share of the total market during the analysis period, using the verified sales of cooperating parties and cleansed ABF import data. China was the only country to export the goods to Australia, and the commission has separated these exports into imports which were covered by the measures subject of this inquiry, and imports which were not subject to these measures.

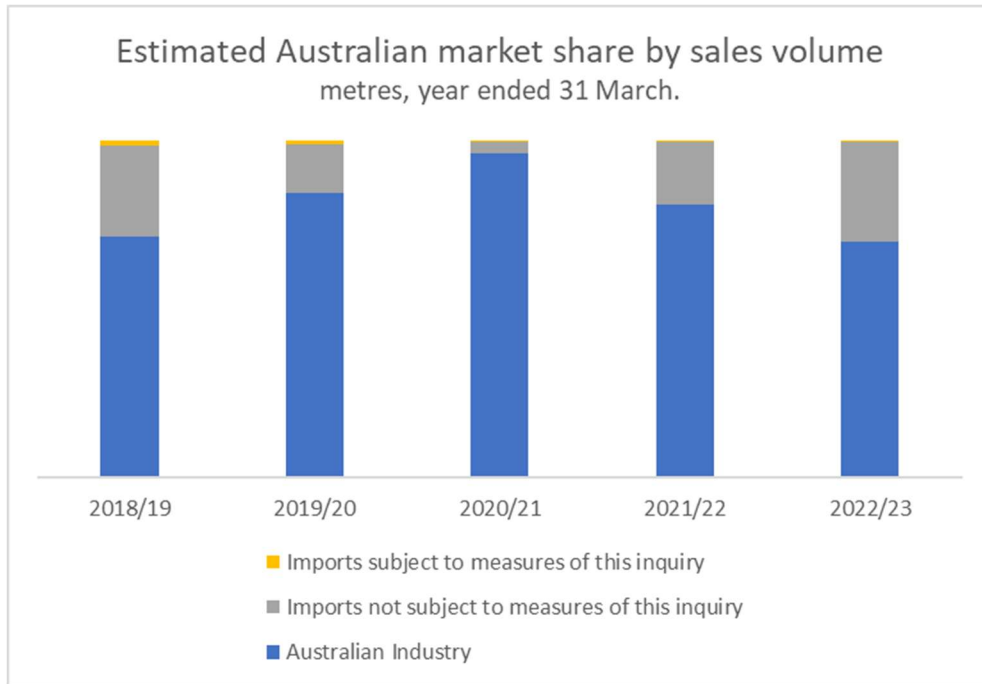


Figure 6: Estimated Australian market share by measures

Over the analysis period the Australian industry’s share of the market increased in 2019/20 and 2020/21 at the expense of Chinese imports (aligning with the COVID-19 pandemic) and then reduced to a slightly lower share than in 2018/19 as Chinese imports resumed.

The market share of Chinese suppliers not subject to the measures under this inquiry accounted for the majority of Chinese imports in 2022/23, increasing significantly from 2020/21 levels. Imports under the measures of this inquiry occurred in each year of the analysis period, albeit it at comparatively very low levels.

5.6 Profits and profitability

The commission has found Prysmian and Nexans experienced low or negative performance in terms profit and unit profitability for most of the analysis period, but achieved profitable levels in 2022 and Q1 2023.

Figure 7 shows that Prysmian experienced strong losses in the years leading up to 2022, excluding 2020 where unit profits and net profits came close to break-even. From Q1 2022 Prysmian has achieved positive unit profitability and net profits.

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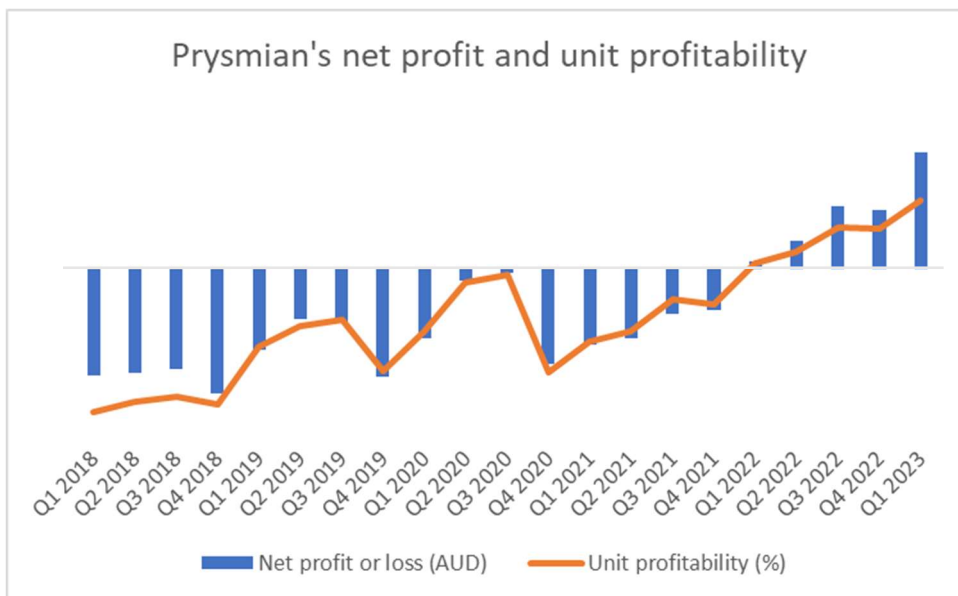


Figure 7: Prysmian's quarterly net profit and unit profitability

Figure 8 shows that Nexans experienced low or negative profit and profitability for much of the period; it achieved break-even profitability in Q1 2021 to Q1 2022, realising positive unit net profit and profitability in the final four quarters of the analysis period.

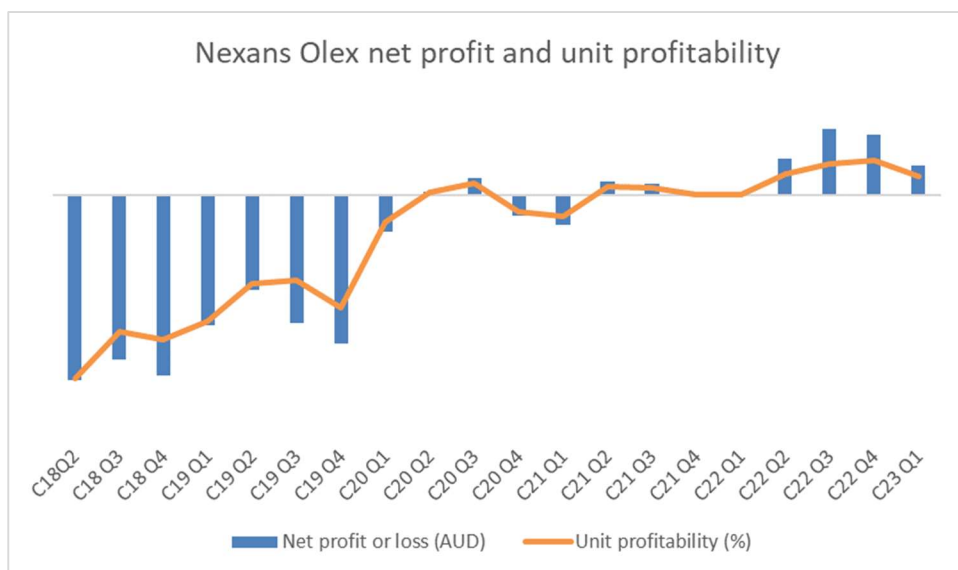


Figure 8: Nexans quarterly net profit and unit profitability

Based on this analysis, the commission infers that the implementation of measures at the end of 2019 had a positive effect on the profitability of Prysmian and Nexans. Noting that 2020 and 2021 was a period of significant market and supply chain disruption during the COVID-19 pandemic – particularly for Chinese suppliers – Australian industry has achieved net profits and positive unit profitability in the last four quarters of the inquiry period.

The commission considers this as evidence of the positive impact of the current measures with respect to Australian manufacturers' profits which, other things being equal, may have otherwise been lower. The commission also notes that the presence of

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Australian industry profits, particularly for short periods of time, does not necessarily indicate an absence of dumping or material injury. As noted in section 5.5, Australian industry also saw a decline in market share during the analysis period including the final four periods, which may reduce profitability, as discussed further in section 7.8.3.

5.7 Other economic factors

Prysmian did not claim any other injury factors in its application. However, at the request of the commission, both Prysmian and Nexans provided data in relation to a range of other economic factors that may also be indicative of injury to the Australian industry. This data covers the 5-year period 2018 to 2022 and included:

- total fixed asset values
- capital investment
- research and development expenses
- ROI
- revenue
- capacity
- capacity utilisation
- employment (persons/hour)
- productivity
- stocks
- cash flow measures (accounts receivable)
- wages.

The findings from Investigation 469 concluded that the Australian industry suffered injury in the form of reduced ROI, reduced capacity utilisation, and reduced employment hours. The commission analysed these factors as part of the current inquiry and observed the following regarding the production of like goods for each.

Prysmian:

- ROI remained negative for like goods over the period
- capacity utilisation for like goods dipped in 2021 but otherwise remained relatively stable
- employment numbers grew higher in 2019 and then returned to close to their 2018 levels in 2021.

Nexans:

- ROI for like goods remained negative throughout the period, but showed an increasing trend
- capacity utilisation for like goods dipped in 2020, remaining stable either side of that year
- capacity utilisation witnessed an overall decrease for both like and other goods over the period.

Analysis of Prysmian and Nexans' other economic factors is at **Confidential Attachment 2 – Prysmian and Nexans economic condition and other injury factors.**

6 DUMPING AND SUBSIDISATION DURING THE INQUIRY PERIOD

6.1 Preliminary finding

To assess whether dumping and subsidisation is likely to continue or recur, the commission has examined whether exports during the inquiry period were dumped and/or subsidised. The Commissioner is preliminarily satisfied that the expiration of the measures applying to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of dumping and subsidisation.

The commission has preliminarily determined dumping and subsidy margins for Jiangsu Etern, Nanyang, and uncooperative and all other exporters, which are summarised in Table 8 below.

Exporter	Dumping margin	Subsidy margin
Jiangsu Etern Electric Co Ltd	23.1%	0.1%
Nanyang Cable (Tianjin) Co Ltd	31.8%	2.8%
Uncooperative and all other exporters	31.8%	3.3%

Table 8: Summary of dumping and subsidy margins

6.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of anti-dumping measures unless the Commissioner is satisfied that the expiration of the measures would lead, or would be likely to lead, to a continuation of, or a recurrence of, dumping. The existence of dumping during the inquiry period may be an indicator of whether dumping may occur in the future.

Dumping occurs when a product from one country is exported to another country at a price less than its normal value.

- **Export price** is determined under section 269TAB. Section 269TAB(1)(a) provides that the export price of any goods exported to Australia is the price paid or payable for the goods by the importer where the goods have been exported to Australia otherwise than by the importer, and have been purchased by the importer from the exporter in arms length transactions
- **Normal value** is determined under section 269TAC. Section 269TAC(1) states that the normal value of any goods exported to Australia is the price paid or payable for like goods sold in the ordinary course of trade (OCOT) for home consumption in the country of export in sales that are arms length transactions by the exporter, or, if like goods are not so sold by the exporter, by other sellers of like goods
- **Dumping margins** are worked out under section 269TACB
- **Uncooperative exporters:** Section 269TACAB(1) sets out the provisions for calculating export prices and normal values for uncooperative exporters. Export

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prices are to be worked out under section 269TAB(3) and normal values are to be calculated under section 269TAC(6).

6.3 Variable factors

The commission assessed the variable factors and dumping margin for Jiangsu Etern. The following sections outline the assessment for Jiangsu Etern.

6.3.1 Jiangsu Etern

Export price

The commission considers Jiangsu Etern to be the exporter of the goods to Australia³⁸ because it:

- produced the goods exported to Australia
- is named as the supplier on the commercial invoice
- is named as consignor on the bill of lading
- is named as the supplier on the packing list
- arranged and paid for inland transport to the port of export.

In respect of the Australian sales of the goods during the inquiry period, the commission found no evidence that:

- there was any consideration payable for, or in respect of, the goods other than their price, or
- the price was influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller, or
- the buyer, or an associate of the buyer, was directly or indirectly reimbursed, compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

The commission therefore considers that all export sales to Australia made by Jiangsu Etern during the period were arms length transactions.

The commission recommends that the export price be determined under section 269TAB(1)(a), being the price paid by the importer to the exporter less transport and other costs arising after exportation.

To ensure that the ascertained export price was calculated using a consistent delivery term, the commission added an amount for inland transport and/or port charges where required to ensure all export transactions were FOB. The commission has calculated

³⁸ The commission generally identifies the exporter as a principal in transacting the exported goods, located in the country of export and either:

- gave up responsibility by knowingly placing the goods in the hands of another company, or its own vehicle, for delivery to Australia
- owned the goods, either at the time the goods were shipped or previously.

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Jiangsu Etern's export price at **Confidential Attachment 3 – Jiangsu Etern export price**.

Normal value

The commission is satisfied that because of the absence of sales of like goods in the market of the country of export that would be relevant for the purpose of determining a price under section 269TAC(1), the normal value of the Australian export goods cannot be ascertained under section 269TAC(1).

The team has therefore calculated a normal value under section 269TAC(2)(c) using the sum of all of:

- the cost to make the exported goods based on the company's records in accordance with section 43(2) of the *Customs (International Obligations) Regulation 2015* (the Regulation)
- selling, general and administrative (SG&A) expenses on the assumption that the goods, instead of being exported, were sold for home consumption in the OCOT in the country of export based on the company's records of its actual amounts of SG&A costs incurred in the production and sale of the same general category of goods in China in accordance with section 44(3)(a) of the Regulation
- an amount for profit based on data relating to the production and sale of like goods in the domestic market in the OCOT in accordance with section 45(3)(c) of the Regulation.

In constructing normal value under 269TAC(2)(c), the commission considers that certain adjustments are necessary to ensure that the normal values are properly comparable with export prices, in accordance with section 269TAC(9) and as specified in the Jiangsu Etern Verification Report.³⁹

The commission's normal value calculations are at **Confidential Attachment 4 – Jiangsu Etern normal value**.

Dumping margin

The preliminary dumping margin for the goods exported to Australia by Jiangsu Etern for the inquiry period is **23.1%**.

The Commission's dumping margin calculations are at **Confidential Attachment 5 – Jiangsu Etern dumping margin**.

Amount of countervailing subsidy

The commission created a list of financial grants based on Jiangsu Etern's financial records for the inquiry period at Table 9 below, and attributed and allocated the received benefit to the Australian export goods as follows:

³⁹ EPR 626, document no [13](#).

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Program number	Program name	Attribution and allocation of the subsidy
46	Public Announcement of the List of Enterprises in Wujiang District, Suzhou City, for Stable Employment and Return in 2022 (I)	Attributed to all company sales and allocated based on net revenue over the period.
47	2021 Wujiang District Industrial High-Quality Development Fund (1st Batch) Suzhou Municipal Enterprise Technology Centre	Attributed to all company sales and allocated based on net revenue over the period.
48	Survey on Enterprises' Retention and Return to Work During The 2022 Spring Festival	Attributed to all company sales and allocated based on net revenue over the period.
49	Employment Subsidy Fund	Attributed to all company sales and allocated based on net revenue over the period.
50	Subsidy for Science and Technology Insurance Premiums 2022, 23rd Batch of Science and Technology Development Plan (Science and Technology Finance Special) Project Funds in Suzhou City	Attributed to all company sales and allocated based on net revenue over the period.
51	Subsidy for High-Technology Enterprises	Attributed to all company sales and allocated based on net revenue over the period.
52	Suzhou Government Subsidy for High-Quality Policy Industries	Attributed to all company sales and allocated based on net revenue over the period.
53	One-Time Job Retention Subsidy 2022	Attributed to all company sales and allocated based on net revenue over the period.

Table 9: Summary of the commission's findings for countervailable programs

The commission's assessment of these programs is at **Non-confidential Appendix A**.

For the programs which the commission found that a benefit was conferred to Jiangsu Etern, the subsidy margin was calculated by establishing the amount of countervailable subsidy received, which resulted from financial contributions to the exporter that conferred a benefit (per sections 269TACC and 269TACD), expressed as a proportion of the export price.

The commission calculated the total benefit conferred to Jiangsu Etern through the identified subsidy programs which are relevant to the goods at **0.1%**.

Details of the subsidy programs assessment and Jiangsu Etern's total countervailable subsidy rate calculation are at **Confidential Appendix 6 – Jiangsu Etern subsidy margin**.

6.3.2 Nanyang, uncooperative and all other exporters

The commission also considered the variable factors for Nanyang and uncooperative and all other exporters. The commission reviewed ABF import data from all exporters covered by the measures to inform its variable factor analysis. However, the scope of this information was considered insufficient due to the low number and size of the transactions in the inquiry period.

Given this, the commission reviewed the variable factors determined in REP 469 to inform this inquiry. Due to the small size of the dataset for the current inquiry, the commission is of the view that the export price and normal values calculated in REP 469 provide a better

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guide for the appropriate level of measures for the Australian PVC flat electric cables market.

Export price and normal value

The commission notes that prices for PVC flat electric cables have increased since the original investigation. In particular, the price of copper, which constitutes the largest cost component of the goods, has also increased since the REP 469 investigation period. The commission has calculated an adjustment to the export prices and normal values determined in REP 469, to account for differences in the raw material costs applicable to this inquiry period.

To do this, the commission considered:

- the increase in spot price of copper on the LME for the export price (given the LME provides the best reflection of Australian market conditions), based on the average daily spot price for the REP 469 investigation period and the average daily spot price for this report's inquiry period
- the increase in spot price of copper on the Shanghai Metals Market (SMM) for the normal value (given the SMM provides the best reflection of costs for Chinese production), based on the average daily spot price for the REP 469 investigation period and the average daily spot price for this report's inquiry period
- consumer price index inflation in China from Q4 2017 (the end of REP 469's inquiry period) to Q1 2023 (the end of the current inquiry period)
- Jiangsu Etern's cost to make and sell data, to determine the proportion of total costs accounted for by copper purchases.

To determine the adjustment to the export value, the commission applied indexation based on the LME for the proportion of copper cost, and Chinese CPI for the remainder. To determine the adjustment to the normal value, the commission applied indexation based on the SMM for the proportion of copper cost, and Chinese CPI for the remainder.

The commission has applied these adjustment factors to the export prices and normal values calculated for Nanyang and uncooperative and all other exporters in REP 469 to provide new variable factors for this inquiry.

Dumping margin

The preliminary dumping margin for the goods exported to Australia by Nanyang for the inquiry period is **31.8%**.

The preliminary dumping margin for the goods exported to Australia by uncooperative and all other exporters for the inquiry period is **31.8%**.

The dumping margin calculations can be found in **Confidential Attachment 7 – Nanyang export price, normal value and dumping margin** and **Confidential Attachment 8 – Uncooperative and all other exporters export price, normal value and dumping margin**.

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Amount of countervailable subsidy

In REP 469, the commission found that Nanyang and Guilin both received countervailable subsidies. The commission notes that Nanyang did not export the goods during the inquiry period and Guilin is not subject to the current inquiry.

However, the commission considered that the subsidies received by Guilin and Nanyang reflected subsidies received by exporters from China generally, and upon further review has not identified evidence that these programs have ceased.

As such, the commission has utilised the subsidy information from these exporters as the base rate from which to calculate the preliminary countervailable subsidy margin for Nanyang and uncooperative and all other exporters. The preliminary countervailable subsidy margin for the goods exported to Australia by Nanyang is **2.8%**, and for uncooperative and all other exporters is **3.3%**.

The countervailing subsidy calculations can be found in **Confidential Attachment 9 – Nanyang subsidy margin** and **Confidential Attachment 10 – Uncooperative and all other exporters subsidy margin**.

7 LIKELIHOOD THAT DUMPING, SUBSIDISATION AND MATERIAL INJURY WILL CONTINUE OR RECUR

7.1 Preliminary finding

On the basis of the evidence obtained in the course of this inquiry, the Commissioner is satisfied that the expiration of the measures applying to PVC flat electric cables exported to Australia from China would lead, or would be likely to lead, to a recurrence of dumping and subsidisation and the material injury that the measures are intended to prevent.

After considering the commission's analysis and findings, the Commissioner is preliminarily satisfied that the following will occur if the measures expire:

- Chinese exporters will continue exporting the goods because:
 - exports continue to comprise a significant portion of the Australian market, albeit predominantly under a separate anti-dumping notice
 - Chinese exporters maintain distribution links in the Australian market
 - Chinese producers have excess production capacity and production lines for cables intended for other products and other markets, which could be reconfigured to supply the Australian market for PVC electric cables.
- Those exports will be dumped because:
 - the commission has found a new entrant to the PVC flat electric cables market has been dumping
 - Guilin continues to supply a significant portion of the Australian market, subject to a lesser rate of dumping duties under a separate notice
 - other Chinese exporters also appear to be exporting the goods at what are likely to be dumped rates.
- The dumping will cause material injury to Australian industry in the form of reduced sales volume, reduced prices and reduced profitability because:
 - PVC flat electric cables are a standardised and substitutable product
 - the Australian market is price-sensitive
 - Australian industry will likely come under increased price pressure from Chinese exporters
 - reduced prices from dumped exports would likely reduce the Australian industry's sales volumes, market share and profitability
 - a new Chinese exporter has entered the market since the introduction of the measures and has supplied the Australian market at dumped prices, albeit in low volumes.

7.2 Legislative framework

Under section 269ZHF(2), the Commissioner must not recommend that the Minister take steps to secure the continuation of measures unless they are satisfied that the expiration of the measures would lead, or would be likely to lead, to a recurrence of the material injury that the measure is intended to prevent.

The commission notes that its assessment of the likelihood of certain events occurring and their anticipated effect, as is required in a continuation inquiry, necessarily requires

an assessment of a hypothetical situation. The commission must consider what will happen (or what would be likely to happen) in the future should a certain event, being the expiry of the measures, occur. However, the Commissioner must nevertheless base their conclusions and recommendations on facts.⁴⁰

7.3 The commission's approach

The commission considered a number of relevant factors to assess the likelihood that material injury will continue or recur, as outlined in the Manual.⁴¹ The commission's view is that the relevance of each factor varies depending on the nature of the goods and the market into which the goods are sold. In this instance, no one factor can provide decisive guidance. The following analysis therefore examines a range of factors that the commission considers relevant to this inquiry.

7.4 Australian industry claims

In its application, Prysmian made the following claims regarding the continuation or recurrence of injury of PVC flat electric cables exported to Australia from China:

- exports from China have continued post-implementation of the measures
- Chinese exporters have maintained distribution links in Australia, demonstrated by the continued imports from China post-implementation of the measures
- exporters have retained excess capacity
- in the absence of measures, exporters from China are highly likely to increase export volumes to Australia, and
- expiration of the measures would likely lead to material injury to the Australian industry in the form of reduced sales and market share.

The commission has considered Prysmian's claims in its analysis below.

7.5 Submissions about the continuation or recurrence of dumping

Prysmian provided a submission to the commission on 20 October 2023,⁴² arguing that it was experiencing undercutting by Chinese imports. Prysmian also provided a recent invoice from an importer of the goods from China, dated after the inquiry period, and used this as the basis for its claims of dumping.

7.6 Are exports likely to continue or recur?

The commission considers that, should the measures expire, exports from China are likely to continue.

To form this view the commission has assessed import volumes, maintenance of distribution links and excess production capacity as outlined in the sections below.

⁴⁰ [ADRP Report No. 44](#) (Clear Float Glass)

⁴¹ [The Manual](#), pages 136-138

⁴² EPR 626, document no [8](#).

7.6.1 Import volumes

Imports from China, inclusive of Guilin, have continued throughout the analysis period. As Figure 9 shows, total imports declined significantly in 2020 and 2021 following the disruption of COVID-19 but have since recovered to levels slightly above 2018/19.

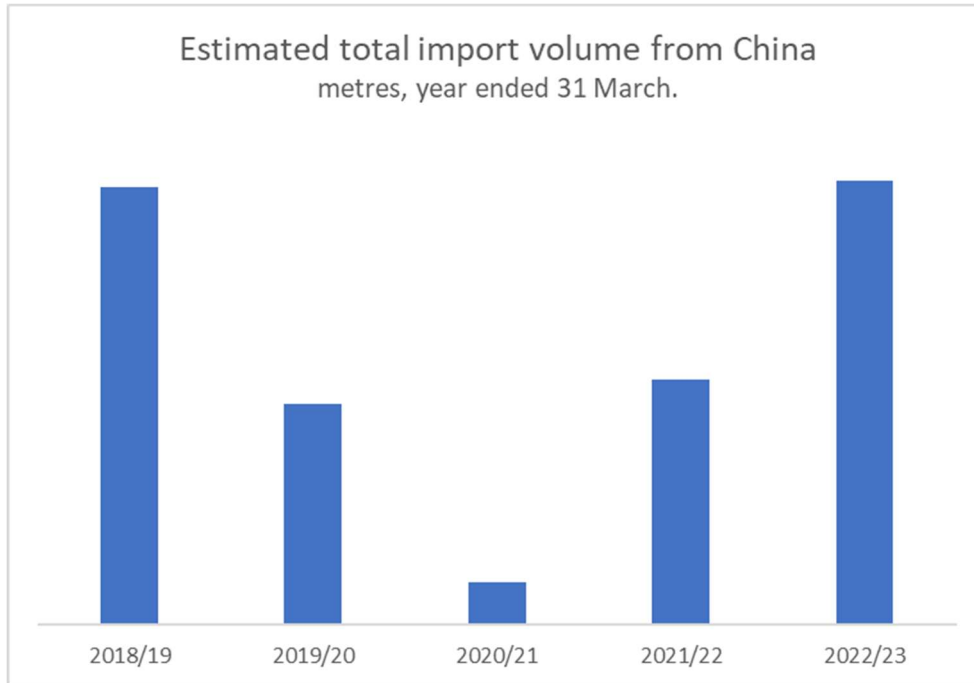


Figure 9: total estimated imports of PVC flat electric cables from China

Figure 10 shows that most of the imports of the goods from China over the inquiry period were not covered by the measures. While imports under the current measures continue, they form a much smaller proportion of imports from China, and in turn a small proportion of the Australian market for the goods.

Therefore, with measures in place Chinese exporters subject to those measures have continued to supply the Australian market. These exporters include Jiangsu Etern, a new entrant to the Australian market, which was found to be selling the goods at dumped rates. The continuation of imports with measures in place indicates to the commission that if the measures were allowed to expire, it would be likely that import volumes would continue to increase.

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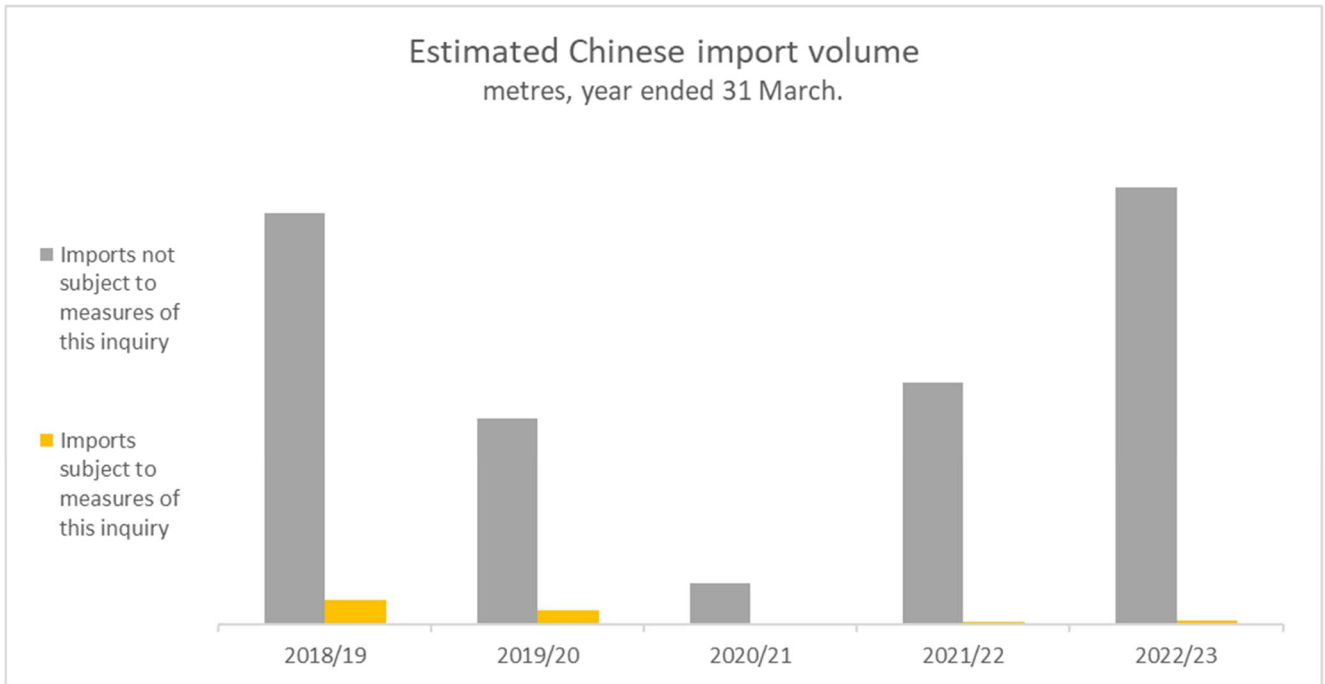


Figure 10: Total estimated imports of PVC flat electric cables from China by anti-dumping measures

	2018/19	2019/20	2020/21	2021/22	2022/23
All other exporters	0%	22%			
Guilin	0%	6.6%	0%		2.8%
		(a)	(b)		(c)

Changes to measures:

- (a) 15 May 2019: implementation of measures under ADN 2019/047 following REP 469 (subject to this inquiry)
- (b) 24 February 2020: revocation of measures applying to Guilin following Federal Court decision
- (c) 1 September 2022: implementation of measures applying to Guilin under ADN 2022/019 following the department’s review

Table 10: Timeline of key changes to anti-dumping measures for PVC flat electric cables from China

As noted in Table 10, imports by Guilin (which make up most Chinese imports) were exempt from measures from Q1 2020 until Q3 2022, after which measures were imposed at an ad valorem duty rate of 2.8% – a much lesser rate than other exporters operating under a combination duty rate of 22.0%. Notably, most of the recovery of lost Chinese market share following 2020 can be attributed to increased exports by Guilin.

Added to the fact that overall imports from China continue (including at dumped rates), the commission considers the strong level of imports under Guilin’s separate measures indicate that imports from China are likely to increase and account for a greater share of the Australian market should the current measures subject of this inquiry be allowed to expire.

The commission also reviewed the FOB export prices for other Chinese exporters of the goods to Australia (excluding Jiangsu Etern and Guilin) based on ABF import data, and compared these prices to Jiangsu Etern’s verified normal value. This analysis showed that during the inquiry period, almost 90% of exports covered by the measures (including those by Jiangsu Etern) had a weighted average cost per metre price that was lower than Jiangsu Etern’s normal value, which suggests that other Chinese exporters were also

likely to be exporting goods at dumped rates during the inquiry period. A full comparison can be found in **Confidential Attachment 11 – Other exporter prices**.

7.6.2 Maintenance of distribution links

As detailed above, the commission observed that the total imports from China by exporters subject to these measures have significantly reduced following the introduction of the measures. NAN, which was an importer in REP 469, has ceased supplying the goods since the imposition of measures.

However, the commission notes that there are other exporters supplying the Australian market under the current measures, including Jiangsu Etern, which is a new entrant to the market for PVC flat electric cables (but has previously exported other cable products to Australia).

The commission considers it possible that established suppliers of other goods could utilise their existing distribution links to supply the market for PVC electric cables, should market conditions make such a move favourable.

7.6.3 Excess production capacity

The commission has examined the production capacity utilisation and export focus of the cooperating exporter, Jiangsu Etern. Based on the data submitted to this inquiry, the commission considers that there is likely excess capacity in China.

Information provided in Jiangsu Etern's verified REQ data demonstrates that it had significant excess capacity during the inquiry period. The commission acknowledges the low level of participation from exporters in the inquiry, and that the market focus and excess capacity of other exporters may be different to Jiangsu Etern (particularly as it is a new exporter). However, with reference to REP 469 where the cooperating exporter Nanyang was found to have significant capacity to supply the goods in larger volumes,⁴³ and in the absence of other information and co-operation from other Chinese exporters, the commission infers that other Chinese producers are likely to also have significant surplus capacity.

In the absence of exporter co-operation, the commission conducted additional inquiries into the electric cable manufacturing industry more broadly. The commission found that the electric cable manufacturing industry is a global, integrated market. For example, the company website of Jiangsu Etern notes its strategy to expand into overseas markets, and the website of Electra Cables (Aust) Pty Ltd (Electra), Guilin's related Australian importing entity, promotes their supply to major projects located in numerous countries around the world (including the large Chinese domestic market).⁴⁴

The commission also observed the production machinery and processes of Prysmian and Nexans, and was advised that production lines can be reconfigured in the short to medium term to respond to changes in product demand and market conditions.

⁴³ REP 469, page 61.

⁴⁴ See <http://en.yongding.com.cn/intro/1.html> and <https://electracable.en.alibaba.com/>.

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The commission also reviewed Jiangsu Etern’s questionnaire regarding production processes – conducting an inspection of its production facilities via video link – and observed that its production process is very similar to that of Prysmian’s and Nexans’.

The commission is of the view that production lines of Chinese exporters can be redirected to increase production of PVC flat electric cables to the Australian market, should market conditions become more favourable than other products.

7.7 Will dumping and subsidisation continue or recur?

The commission considers that the expiry of the measures would be likely to lead to a continuation of dumping and subsidisation of PVC flat electric cables from China.

This finding is based on the following significant factors:

- Jiangsu Etern has recently entered the Australian market, and has exported the goods at dumped rates
- Guilin continues to supply the Australian market, subject to a lesser rate of dumping duty under a separate notice.

To form its view, the commission has assessed the dumping margins for Jiangsu Etern, considered both the previous dumping margin assessments in REP 469 and anti-dumping actions taken in other jurisdictions, and the level of subsidisation as outlined in the sections below.

7.7.1 Dumping margin analysis – Jiangsu Etern

Table 11 shows the dumping and subsidy margins detailed in Chapter 6.

Exporter	Dumping margin	Subsidy margin
Jiangsu Etern Electric Co Ltd	23.1%	0.1%
Nanyang Cable (Tianjin) Co Ltd	31.8%	2.8%
Uncooperative and all other exporters	31.8%	3.3%

Table 11: Dumping within the inquiry period

Jiangsu Etern

The commission found that dumped goods were exported to Australia from China during the inquiry period.

The commission has examined the facts relevant to assessing the likelihood that Jiangsu Etern will continue to export the goods at dumped and subsidised prices. Based on Jiangsu Etern’s behaviour in exporting goods at dumped prices in the inquiry period, and in the absence of evidence suggesting a change in that behaviour, the commission considers that dumping and subsidisation would be likely to continue if the anti-dumping measures expired.

7.7.2 Previous dumping margin assessments

In the original investigation REP 469, the commission found that all goods from China were exported to Australia at dumped and subsidised prices. The dumping margins for all

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exporters was found to be not negligible. The subsidy margin for Guilin was found to be negligible, while the subsidy margin for all other exporters was not negligible.

The department conducted a review of the measures as they applied to Guilin, published on 1 September 2022.⁴⁵ The department found that Guilin exported the goods at dumped prices, but at a lower margin than the findings of REP 469.

Table 12 below shows current dumping margins applicable to the goods.

Exporter	Dumping margin	Subsidy margin	Applicable notice
Nanyang	33.2%	3.1%	ADN 2019/047
Guilin	2.8%	0%	ADN 2022/019
Uncooperative and all other exporters ⁴⁶	33.2%	3.7%	ADN 2019/047

Table 12: Dumping margins found for exports of the goods

In REP 469, the commission understood that the electrical wholesalers, which account for most of the purchases of the goods from Australian industry and importers, prefer to source PVC flat electric cable from multiple suppliers, and will continue to look for lower priced alternatives to locally produced goods. Given the price sensitivity of the Australian PVC flat electric cables market and the magnitude of the price undercutting by the dumped and subsidised imports found during the original investigation period, imported PVC flat electric cables would continue to be an attractive source of supply.

The commission also observed that the goods are highly interchangeable and price-sensitive, and that importers maintained established routes to market. The commission also reviewed the ABF import database of the REP 469 investigation period, and noticed that both importers, Electra and NAN, increased their import volumes of the goods. Based on these findings, the commission formed the view that dumping would continue if measures were not imposed. These findings were not impacted by the department's subsequent review of Guilin's exports.

7.7.3 Anti-dumping actions in other jurisdictions

In its application, Prysmian noted existing trade remedies that apply to comparable goods imposed by World Trade Organisation (WTO) member countries on a range of electrical cables of up to 1kW from China. The application further highlighted the United Kingdom's Trade Remedies Authority current anti-subsidy investigation into Single-mode Optical Fibre Cables manufactured from China.

The commission notes that whilst these examples are not identical to the goods subject to this application, it considers that the trade remedies and measures for similar electrical cable types in other jurisdictions is a factor that influences global trade by altering comparative access to markets. As such, the expiration of the measures may make Australia a comparatively more attractive and accessible market for exports from China,

⁴⁵ EPR 469, document no [43](#).

⁴⁶ The Commission is treating all other exporters of PVC flat electrical cable from China in the investigation period as 'uncooperative exporters', as explained at section 6.2 of this report.

given the prevalence of trade measures against Chinese flat electrical cable products in other jurisdictions.

7.7.4 Subsidisation level

The commission found that Jiangsu Etern received a benefit in relation to grant programs. On the basis that the commission finds these programs to be countervailable subsidies, it has calculated the subsidy margin for Jiangsu Etern during the inquiry period at **0.1%**.

In REP 469, the commission found that Nanyang and Guilin both received countervailable subsidies. Using the subsidy information from these exporters to establish a subsidy rate for Nanyang and uncooperative and all other exporters, the commission calculated a subsidy rate of **2.8%** for Nanyang, and for uncooperative and all other exporters at **3.3%**.

The commission has preliminarily found that exporters received countervailable subsidies in respect of the goods exported in the inquiry period.

7.8 Will material injury continue or recur?

The commission considers that the expiry of the measures would be likely to lead to a recurrence of material injury that the anti-dumping measures are intended to prevent.

This finding is based on the following significant factors:

- PVC flat electric cables are a highly standardised and substitutable product
- the Australian market is price-sensitive
- Australian industry will likely come under increased price pressure from Chinese exports
- reduced prices from dumped exports would likely reduce the Australian industry's sales volumes, market share and profitability
- a new Chinese exporter has entered the market since the introduction of the measures, and has supplied the Australian market at dumped prices, albeit in low volumes.

To form its view, the commission has assessed the effects of volume, pricing, and profitability, as outlined in the sections below.

7.8.1 Pricing analysis

The commission understands that the PVC flat electric cable market is a price-sensitive market. PVC flat electric cables are highly standardised due to the requirement for all suppliers to meet the Australian Standard. Furthermore, as PVC flat electric cables are installed in electrical construction projects, there is only a limited level of demand for differentiated products. As a result, PVC flat electric cables are a highly substitutable product between different suppliers, and price is a crucial factor to maintain competitiveness.

In REP 469, the commission found that that lower pricing in a price-sensitive Australian market caused material injury to the Australian industry, and created downward pressure on prices which supported an exporter's market entry strategy. In its application, Prysmian argued that these factors are still present in the Australian market today.

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Figure 11 shows the weighted average unit selling price of goods manufactured by the Australian industry and Jiangsu Etern (imported and sold by WWC), which found that selling prices remained consistent for three of the four months that Jiangsu Etern exported the goods, and that Jiangsu Etern enjoyed a lower selling price for one of the months. This suggests that the Australian market remains price sensitive, and that the Australian industry has limited scope to reduce pricing in response to dumped goods.

The commission also reviewed WWC's weighted average interim dumping and countervailing duties paid per metre of imports over the inquiry period, noting these are contained in its unit selling price. The commission observed that WWC's dumping duty-exclusive price would have significantly undercut Australian industry prices. As such, in the absence of measures Australian industry would likely be forced to lower its unit prices, or risk suffering a loss of sales volume.

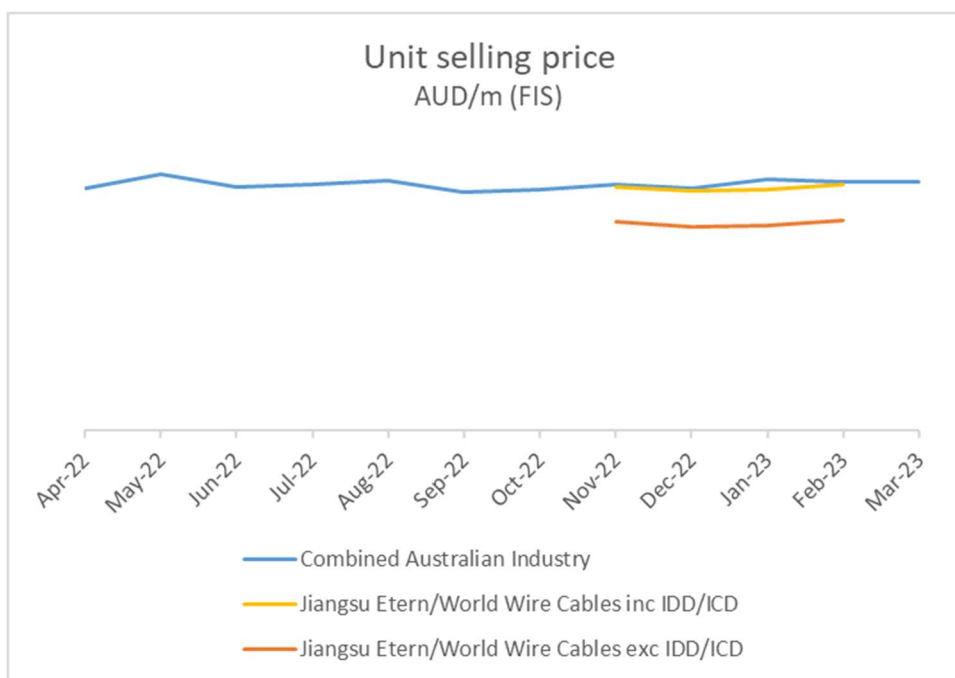


Figure 11: Unit selling price, inquiry period

To gain an insight into Jiangsu Etern's potential export prices in a market without the measures, the commission compared the weighted average unit net import values of Jiangsu Etern to Guilin based on Electra's ABF import data. The commission reviewed Jiangsu Etern and Guilin's exports in the inquiry period, inclusive of customs duty, applicable dumping and countervailing duties and transport and insurance, as shown in Figure 12.

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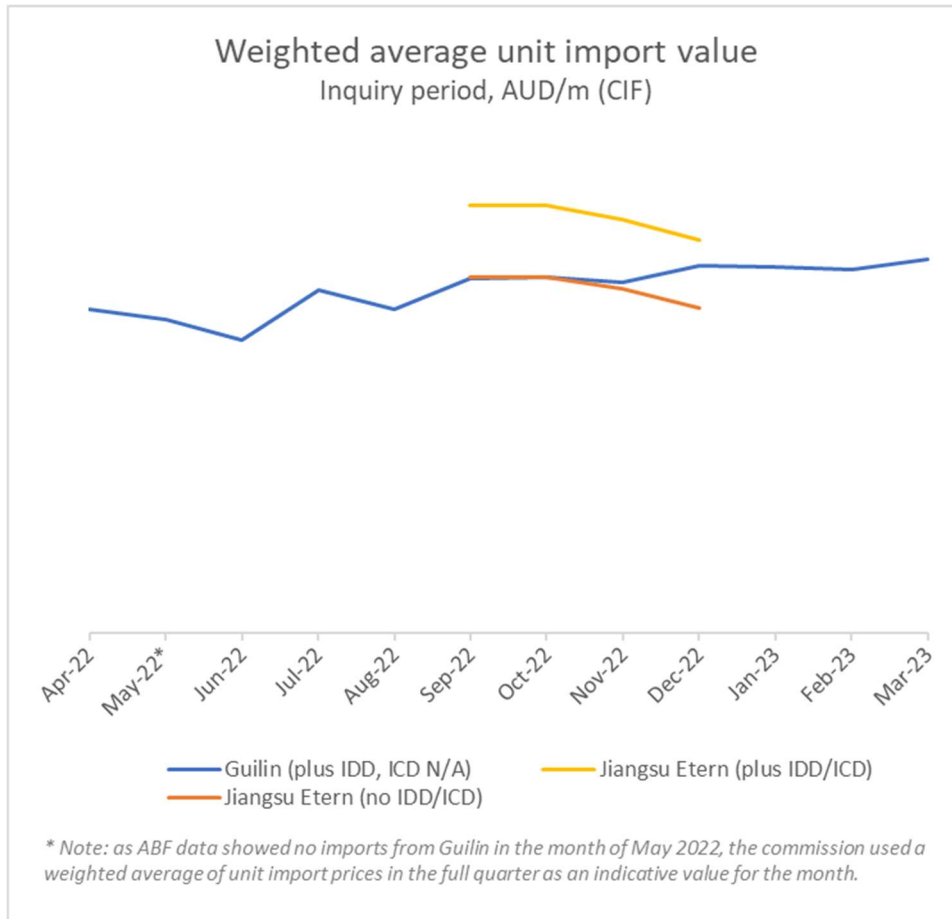


Figure 12: Weighted average unit import value, inquiry period

Jiangsu Etern's duties-inclusive unit import value was higher than that of Guilin in the inquiry period. During this time, Guilin's exports were not subject to measures until 1 September 2022, when its separate notice came into effect and imposed a much lower IDD of 2.8% (compared to a combined IDD & ICD rate of 22.0% for all other Chinese exporters under the measures of this inquiry).

The commission also reviewed Jiangsu Etern's import values exclusive of applicable dumping and countervailing duties for the inquiry period. Jiangsu Etern's import values were slightly above Guilin for three of the four months, but are substantially lower in December 2022. This suggests that the market may be price-competitive among Chinese exporters as well, which would likely continue to place downward pressure on prices.

The commission is of the view that dumping duties contribute to a higher unit import value for exporters, and that the measures are a factor in exporters prices and their competitiveness in the price-sensitive Australian market. Without measures, Chinese exporters may use dumped pricing to become price leaders and build market share to the detriment of Australian industry.

7.8.2 Volume analysis

The commission understands that sales volume is an important factor in attaining competitiveness in the PVC flat electric cables market. The commission notes that when

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Australian industry members lose sales volumes and market share, their fixed costs are distributed across a lower sales volume which would further reduce their profitability.

As noted in Section 4.6, the total size of the Australian market has decreased during the analysis period. Figure 14 shows a comparison of Australian industry sales and total Chinese imports over this time.

Total imports from China declined significantly in 2020 and 2021, aligning with the COVID-19 pandemic and its related supply chain interruptions, but have since fully recovered with current sales now higher than their 2018/19 levels. In comparison, total Australian industry sales peaked in 2019/20, and have since declined.

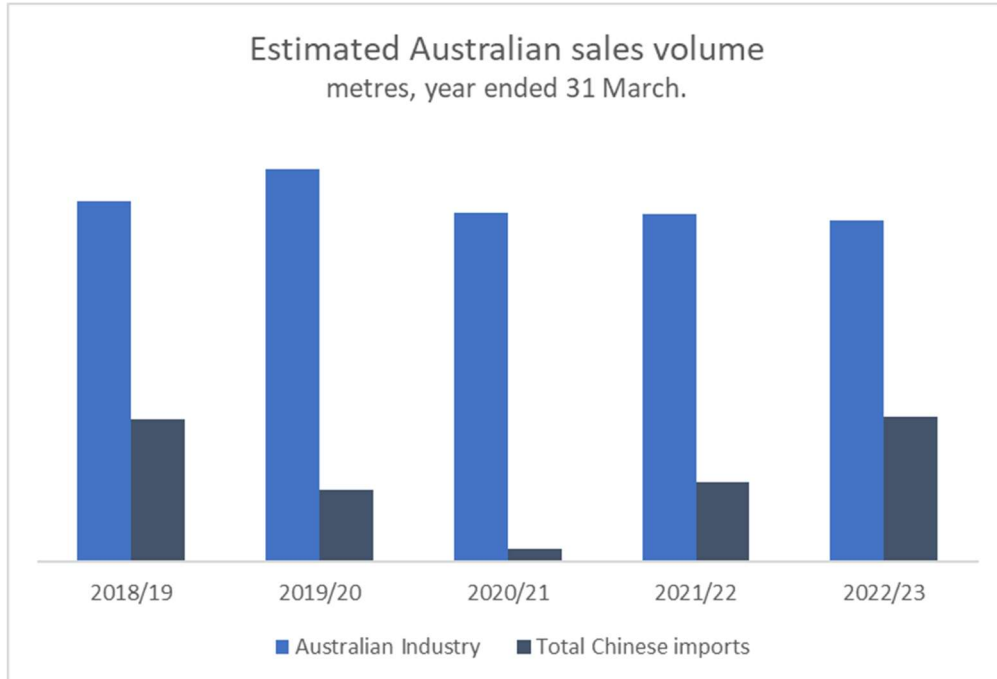


Figure 14: Total estimated Australian sales by country source

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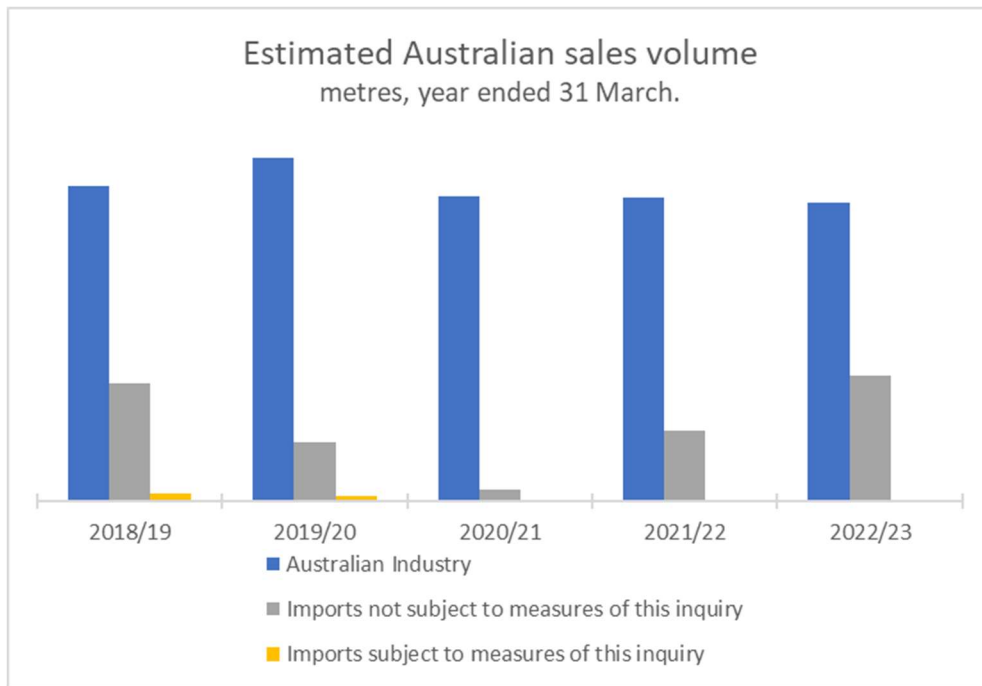


Figure 15: Total estimated Australian sales volume by dumping measures, and key dates of application of measures

As noted in section 7.6.1, while Guilin continues to export under separate measures, exports by other Chinese manufacturers have significantly reduced. The commission expects that, should the measures expire, it is likely that Chinese exporters will endeavour to recapture this lost market share at the expense of the Australian industry.

7.8.3 Profit and profitability analysis

The commission expects that should the measures expire, it is likely that the Australian industry will come under pricing pressure from increased export volumes from Chinese suppliers, which may lead to lost market share and higher unit fixed costs. It is also likely that Australian industry will face price competition from lower priced Chinese imports in the price-sensitive Australian market.

Increased volume and price competition would compel Australian industry to take one of two actions:

- maintain price levels at the expense of market share, further compounding volume losses and increasing unit fixed costs, or
- match price levels to remain competitive with dumped imports and maintain market share at the expense of profitability.

As outlined in sections 7.8.1 and 7.8.2, the commission is of the view that should the measures expire, the Australian industry would likely experience loss of market share and price undercutting as a result of dumped imports. Given the size of the Australian market and its highly competitive nature, the potential injury to Australian industry would be material.

8 NON-INJURIOUS PRICE

8.1 Preliminary finding

The commission, having regard to the available information, has determined that the non-injurious price (NIP) has changed for PVC flat electric cables.

The commission calculated that the NIP is less than the normal value for Jiangsu Etern. The Commissioner therefore recommends that the NIP be the operative measure for all exports of PVC flat electric cables from China by Jiangsu Etern, and that any IDD payable be calculated by reference to the lesser duty rule.

For Nanyang and uncooperative and all other exporters, the commission found that the NIP is above the sum of the export price and total interim duty payable. Therefore, the NIP is not the operative measure.

The Commission's calculation of the NIP is contained in **Confidential Attachment 12 – Non-injurious price**.

8.2 Framework

8.2.1 The NIP

The NIP is defined in subsection 269TACA as the minimum price necessary to prevent the injury or a recurrence of the injury caused by the dumping. The NIP is a variable factor relevant to determining duty payable under the *Customs Tariff (Anti-Dumping) Act 1975* (Dumping Duty Act).

The legislation does not prescribe a calculation method for the NIP. The commission generally derives the NIP by:

- establishing an unsuppressed selling price (USP), being a price at which the Australian industry might reasonably sell its product in a market unaffected by dumping (see below), then
- deducting the costs incurred in getting the goods from the export FOB point (or another point if appropriate) to the relevant level of trade in Australia from the USP. The deductions normally include overseas freight, insurance, into store costs and amounts for importer expenses and profit.

The unsuppressed selling price

The Manual provides a hierarchy of options for establishing a USP:⁴⁷

- the Australian industry's price or market approach in a period unaffected by dumping
- the constructed approach, using the Australian industry's CTMS data and a reasonable amount for profit

⁴⁷ [The Manual](#), pages 106–109.

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- the price or market approach for imports that were found not to have been dumped.

8.2.2 The lesser duty rule

Where the Minister is required to determine the IDD, section 8(5B) of the Customs Tariff (Anti-Dumping) Act 1975 (the Dumping Duty Act) applies. Where the Minister is required to determine both IDD and ICD, sections 8(5BA) and 10(3D) of the Dumping Duty Act apply.

Sections 8(5B), 8(5BA) and 10(3D) require the Minister to have regard to the 'lesser duty rule' when determining the IDD and ICD payable. In relation to a dumping duty notice, the lesser duty rule requires consideration of whether the NIP is less than the normal value of the goods. In respect of concurrent dumping and countervailing duty notices, the lesser duty rule requires the Minister to consider the desirability of fixing a lesser amount of duty such that the sum of the export price (of the goods ascertained for the purposes of the notices), the IDD and the ICD, do not exceed the NIP.

However, under sections 8(5BAAA) and 10(3DA) of the Dumping Duty Act, the Minister is not required to have regard to the lesser duty rule if:

- the normal value of the goods was not ascertained under section 269TAC(1) because of the operation of section 269TAC(2)(a)(ii), or
- there is an Australian industry in respect of like goods that consists of at least 2 small-medium enterprises, whether or not that industry consists of other enterprises, or
- if a countervailable subsidy has been received from a country that has not complied with Article 25 of the WTO Agreement on Subsidies and Countervailing Measures for the compliance period.

Where any of the above exceptions apply, the Minister's consideration of the lesser duty rule is not mandatory, but the Minister may still wish to exercise their discretion to do so.

8.3 Commission's approach and findings

The commission has calculated the NIP using the same method adopted in REP 469. The commission has found that the normal value of the goods exported by Jiangsu Etern exceeds the NIP, and therefore recommends that the Minister have regard to the lesser duty rule.

8.3.1 Approach in the original investigation

In REP 469, the commission established the NIP by reference to a USP equal to the Australian industry's weighted average CTMS for the like goods, plus an amount of profit Prysmian realised from the sale of a 1.5 mm² twin core and earth PVC flat electric cable product, which the commission considers a part of the same general category of goods.

The commission, having established the USP, reviewed the importation costs of one of the main importers in the investigation and calculated the NIP by deducting that importer's costs necessarily incurred in getting the goods from the FOB point at export and selling them in the Australian market, and an amount for importer profit.

8.3.2 Commissioner's assessment of NIP and USP

For the purpose of this inquiry, the commission has calculated a revised NIP for China by having regard to:

- the approach used to calculate the NIP in REP 469
- a USP based on the Australian industry's monthly weighted average CTMS plus a reasonable amount of profit over the inquiry period
- WWC's SG&A expenses and the expenses incurred in bringing the goods from the FOB export point.

Section 24.2 of the Manual states that the commission will not depart from the approach taken in the original investigation or a previous review, unless there has been a change in circumstances that either makes the earlier USP approach unreasonable, or less preferred among other available options.

Accordingly, the commission has adopted the same approach to calculate the Australian industry's weighted average CTMS for the like goods in the inquiry period, and has applied the same level of profit that was used in REP 469.

In calculating the NIP, the commission has used WWC's post-importation costs, including its SG&A, plus any applicable marine insurance, ocean freight and duties payable. WWC's sales of the goods were found to be unprofitable in the inquiry period. Therefore, the commission has applied a nil rate of profit for WWC.

8.3.3 Application of the lesser duty rule

Jiangsu Etern

For the rate of duties relating to Jiangsu Etern, the commission compared the NIP to the sum of the ascertained export price, interim dumping duty and interim countervailing duty and found that the NIP is the lower of the two. Therefore, having regard to the lesser duty rule, the commission finds that the NIP ought to be the operative measure and recommends that the level of interim duty be set so that the sum of the ascertained export price of the goods and the total interim duty payable does not exceed the NIP.

Nanyang and all other exporters (excluding Jiangsu Etern and Guilin)

For the rate of duties relating to Nanyang and uncooperative and all other exporters covered by the measures of this inquiry (excluding Jiangsu Etern and Guilin), the commission calculated export prices adjusted for the increase in copper price and Chinese inflation (as noted in 6.3.2). The commission compared the NIP to the sum of the ascertained export price, IDD and ICD for Nanyang and for uncooperative and all other exporters, and found that the NIP was higher. Therefore, under the lesser duty rule the NIP will no longer be the operative measure with respect to Nanyang and uncooperative and all other exporters (excluding Jiangsu Etern and Guilin).

9 FORM OF MEASURES

9.1 Preliminary findings and recommendations

The Commissioner considers the IDD payable on PVC flat electric cables exported from China should be calculated using the current method applied to the measures, which is the combination duty method in respect to IDD and calculated as a proportion of the export price in respect to ICD.

The commission notes that it has not received any submissions requesting to change the method used to calculate IDD and ICD.

9.2 Legislative framework

The *Customs Tariff (Anti-Dumping) Regulation 2013* prescribes the methods available to the Minister for working out IDD payable. The methods are:

- fixed duty method (\$X per tonne)
- floor price duty method
- combination duty method
- ad valorem duty method (i.e. a percentage of the export price).

These forms of dumping duty all have the purpose of removing the injurious effects of dumping and subsidisation. However, in achieving this purpose, certain forms of duty will better suit particular circumstances than others. More detail on the nature and operation of the various forms of duty are contained in the *Guidelines on the Application of Forms of Dumping Duty November 2013*.⁴⁸

9.3 Proposed form of measures and effective rates of duty

9.3.1 Effective rate of duty

If the recommendations of this report are adopted, the rates of interim duties in relation to the goods exported from China are calculated at the rates specified in Table 13.

As outlined in Chapter 6, new variable factors have been determined for all exporters.

The effective rates of duty for Nanyang and uncooperative and all other exporters includes an adjustment to the IDD, as discussed in chapter 12.5 of REP 469. The commission applied this adjustment to avoid double counting the effects of the provision of copper at less than adequate remuneration in the subsidy margin calculation.

⁴⁸ Available [here](#) on the Commission's website.

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Exporter	Fixed rate of IDD	Fixed rate of ICD	Duty method	Total effective rate of duties
Jiangsu Etern Electric Co Ltd	11.8%	0.1%	Combination duty	11.9%
Nanyang Cable (Tianjin) Co Ltd	29.1%	2.8%	Combination duty	31.9%
Uncooperative and all other exporters	29.1%	3.3%	Combination duty	32.4%

Table 13: Effective rates of duty

10 PROPOSED RECOMMENDATIONS

For the reasons outlined in Chapter 7 of this SEF, the Commissioner is preliminarily satisfied that the expiration of the measures would likely lead to a recurrence of the dumping and subsidisation and material injury that the measures are intended to prevent. Therefore, the Commissioner proposes to recommend that the Minister take steps to secure the continuation of the anti-dumping measures applying to the goods exported to Australia from China.

The Commissioner further proposes to recommend that the dumping duty notice and the countervailing duty notice have effect in relation to Jiangsu Etern,⁴⁹ as if different variable factors had been ascertained with application of the lesser duty rule.

The Commissioner further proposes that the dumping duty notice and the countervailing duty notice is updated for Nanyang Cable (Tianjin) Co Ltd and for uncooperative and all other exporters to reflect the change in fixed rate of interim duties due to the uplifted variable factors and the lesser duty rule no longer applying to these exporters.⁵⁰

⁴⁹ Section 269ZHF(1)(a)(iii).

⁵⁰ Section 269ZHF(1)(a)(i).

11 APPENDICES AND ATTACHMENTS

Appendix A	Assessment of alleged subsidy programs – China
Confidential Attachment 1	Market size and share
Confidential Attachment 2	Prysmian and Nexans economic condition and other injury factors
Confidential Attachment 3	Jiangsu Etern export price
Confidential Attachment 4	Jiangsu Etern normal value
Confidential Attachment 5	Jiangsu Etern dumping margin
Confidential Attachment 6	Jiangsu Etern subsidy margin
Confidential Attachment 7	Nanyang export price, normal value and dumping margin
Confidential Attachment 8	Uncooperative and all other exporters export price, normal value and dumping margin
Confidential Attachment 9	Nanyang subsidy margin
Confidential Attachment 10	Uncooperative and all other exporters subsidy margin
Confidential Attachment 11	Other exporter prices
Confidential Attachment 12	Non-injurious price

APPENDIX A: ASSESSMENT OF ALLEGED SUBSIDY PROGRAMS – CHINA

A1 Introduction

As discussed in section 7.7.5, the commission received further contemporary information on subsidies from JE. However, the commission has assessed the below noting that the commission considers that programs established in the original investigation continue.

A2 Definition of Government, public and private bodies

In its assessment of each program, the commission has had regard to the entity responsible for providing the financial contribution (if any) under the relevant program, as part of the test under section 269T(1) for determining whether a financial contribution is a subsidy. Under section 269T(1), for a contribution to be a subsidy, the contribution must have been made by:

- a government of the country of export or country of origin of the goods, or
- a public body of that country or a public body of which that government is a member, or
- a private body entrusted or directed by that government or public body to carry out a governmental function.

A2.1 Government

As described in section 16.2 of the Manual, the commission considers that the term 'government' is taken to include government at all different levels, including at a national and sub-national level.

A2.2 Public bodies

The term 'public body' is not defined in the Act. Determining whether an entity is a 'public body' requires evaluation of all available evidence of the entity's features and its relationship with government, including the following:

- The objectives and functions performed by the body and whether the entity in question is pursuing public policy objectives. In this regard relevant factors include:
 - legislation and other legal instruments
 - the degree of separation and independence of the entity from a government, including the appointment of directors and
 - the contribution that an entity makes to the pursuit of government policies or interests, such as considering national or regional economic interests and the promotion of social objectives.
- The body's ownership and management structure, such as whether the body is wholly-or part-owned by the government or whether the government has a majority of shares in the body. A finding that a body is a public body may be supported through:
 - the government's ability to make appointments
 - the right of government to review results and determine the body's objectives and

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- the government's involvement in investment or business decisions.

The commission considers this approach is consistent with the WTO Appellate Body decision of *United States – Countervailing Measures (China)*.⁵¹ In that case the Appellate body referred to the following 3 indicia which may assist in assessing whether an entity was a public body vested with, or exercising, government authority:

- Where a statute or other legal instrument expressly vests government authority in the entity concerned
- Where there is evidence that an entity is, in fact, exercising governmental functions
- Where there is evidence that a government exercises meaningful control over an entity and exercises governmental authority in the performance of government functions.

These principles have also previously been considered in the Federal Court of Australia.⁵²

A2.3 Private bodies

Where an entity is neither a government nor public body, the commission will consider it a private body, in which case, a government direction to make a financial contribution in respect of the goods must be established in order for the contribution to be considered a subsidy, as defined by section 269T(1).

Pursuant to section 16.3 of the Manual, in determining the character of an entity which may have provided a financial contribution, the commission will consider whether a private body has been:

- 'entrusted' to carry out a government function, which occurs when a government gives responsibility to a private body
- 'directed' to carry out a government function, which occurs in situations where the government exercises its authority over a private body.

Accordingly, not all government acts will be considered as entrusting or directing a private body. Encouragement or mere policy announcements by government, of themselves, are not sufficient to satisfy this test. However, threats and inducements may be evidence of entrustment or inducements. It is where the private body is considered a proxy by government to give effect to financial contributions that this test will be satisfied.

A3 Assessments of Programs – China

During INV 469 the commission assessed and found 45 subsidy programs applicable to the PVC flat electric cables exported from China to be countervailable. The commission considers that no new information has been provided that would warrant a reconsideration of the determinations made in the previous investigation, and has therefore maintained its position that these programs are countervailable.

⁵¹ DS379 United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China.

⁵² See *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870, [27] - [70] *Dalian Steelforce Hi Tech Co Ltd V Minister for Home Affairs* [2015] FCA 885, [50] - [73].

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The commission has relied upon information submitted by the co-operating exporter with respect to its investigation of the countervailing subsidy programs that have allegedly been received by the Chinese exporter of PVC flat electric cables exported to Australia.

A3.1 Assessment of existing grant programs relevant to PVC flat electric cables

There are an additional 8 subsidy programs that currently apply to the PVC flat electric cables (outlined in Table 10), with an overview of the commission's considerations with respect to these new programs provided below.

The commission assessed the following subsidy programs:

- Program 49 (Employment subsidy fund) – references to targeted employment subsidy funds from the Chinese government. The commission did not find evidence of non-specific employment subsidy fund in 2022 or 2023.
- Program 50 (Subsidy for science and technology insurance premiums 2022) – this is specific to science/technology organisations within the Suzhou district.
- Program 51 (Subsidy for high-technology enterprises) – this is targeted to specific industry.
- Program 52 (Suzhou government subsidy for high-quality policy industries) – this is targeted to specific industry and particular location.
- Program 53 (One-time job retention subsidy 2022) – appears targeted for specific arrangements. The commission did not identify any non-specific subsidy utilising this name (NB. the commission could not identify the parameters of this grant).

The commission assessed two Wujian district programs and found the following:

- Program 46 (Public announcement of the list of enterprises in Wujiang district, Suzhou city, for stable employment and return in 2022) – granted to specific businesses and appears to be exclusive to a local geographic area.
- Program 47 (2021 Wujiang district industrial high-quality development fund (1st batch) Suzhou municipal enterprise technology centre) – granted to certain businesses and related to an industry that broadly includes the goods and like goods.

The commission assessed a survey program and found the following:

- Program 48 (Survey on enterprises' retention and return to work during the 2022 Spring Festival) – appears to be an initiative to encourage workers not to travel during a holiday period to boost productivity in certain industries and local areas.

Note that due to the nature of these grants, and in light of the limited information available, it is considered that a financial contribution under these programs would be made in connection to the production, manufacture or export of all goods of the recipient enterprise (including PVC flat electric cables).